

In The Matter Of:

*Mancini vs
City of Providence*

*Chief Hugh T. Clements, Jr.
June 10, 2015*



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Min-U-Script® with Word Index

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

Mark Mancini :
 :
VS. : C.A. NO: 13-092-S-PAS
 :
City of Providence, :
By and Through its :
Treasurer, James J. :
Lombardi, III, and :
Hugh Clements, Jr. :

DEPOSITION OF CHIEF HUGH T. CLEMENTS, JR., a
Defendant in the above-entitled cause, taken on
behalf of the Plaintiff, before Elizabeth Greeley,
Notary Public, in and for the State of Rhode Island,
at the Law Office of Mark Gagliardi, 120 Wayland
Avenue, Providence, Rhode Island, on June 10, 2015 at
12:00 p.m.

PRESENT:

FOR THE PLAINTIFF.....LAW OFFICE OF MARK GAGLIARDI
BY: MARK GAGLIARDI, ESQUIRE
-AND-
GEOFF APTT, ESQUIRE

FOR THE DEFENDANT.....CITY OF PROVIDENCE
DEPARTMENT OF LAW
BY: KEVIN MCHUGH, ESQUIRE
-AND-
KATHRYN SABATINI

ALSO PRESENT:
MARK MANCINI
JENNAWE HUGHES

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1 (DEPOSITION COMMENCED AT 12:10 P.M.)

2 CHIEF HUGH T. CLEMENTS, JR.

3 Being duly sworn, deposes and testifies as
4 follows:

5 THE REPORTER: Would you state your name
6 for the record, please?

7 THE WITNESS: Hugh T. Clements, Jr.,
8 C-L-E-M-E-N-T-S.

9 EXAMINATION BY MR. GAGLIARDI

10 Q. Good afternoon, Chief Clements. Is it okay if I
11 refer to you as Chief or Colonel Clements?

12 A. That's fine.

13 Q. Is your title Colonel?

14 A. Colonel. We're an old traditional
15 department, so technically Colonel, but Chief is fine.

16 Q. We're here today for your deposition. You know
17 why you're here?

18 A. Yes.

19 MR. GAGLIARDI: Before we get going with
20 the deposition, we're going to put a few things on the
21 record. One matter concerns our discussion about the
22 performance of police officers that are working for
23 the department. We're under a court order that we're
24 only allowed to do so amongst the attorneys.

25 We can't share that information with Sergeant

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1 Mancini, unless it's approved either by the Defendants
2 or The Court. Is that correct, Kevin?

3 MR. MCHUGH: Correct.

4 MR. GAGLIARDI: Attorney McHugh, would
5 you like to put this document in the record? It's a
6 text order from the Federal Court basically stating
7 what I just said.

8 MR. MCHUGH: What I wanted to put on the
9 record was that on May 20, 2014 Magistrate Judge
10 Sullivan issued an order on a motion to compel that
11 the Plaintiff had filed.

12 I won't read the whole thing, but for the
13 documents that had to be produced, which were requests
14 for productions Numbers 24, 25, 26 -- I'll put a copy
15 of that in, too, so we have the actual request. That
16 use of such material shall be limited to this case
17 only. Access to such material shall be limited to
18 Plaintiff's attorneys, staff and experts.

19 Plaintiff, Sergeant Mancini, is prohibited from
20 access, except for compilations that contain no
21 information relating to specific individual, with one
22 exception. If Plaintiff's counsel deems access by
23 Plaintiff necessary to obtain assistance in preparing
24 the case, the specific documents deemed necessary may
25 be redacted to cover up all personal identifiers and

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1 show to Defendants' counsel.

2 I won't read the rest of it. I think in addition
3 to this and what Mr. Gagliardi said, this complies
4 with that. I think in addition to that, the problem
5 then is going to be that all this is going to be in
6 the record, in the deposition.

7 So I think in addition to the questions being
8 asked and answered while Sergeant Mancini is not
9 present, that Sergeant Mancini should not be allowed
10 to read those pages of the deposition that give the
11 answers to those questions. It's really the same
12 thing.

13 MR. GAGLIARDI: I agree. In the event he
14 were to read it, we would redact the names.

15 MR. MCHUGH: Right. Yes, pursuant to the
16 order. If I could put the order in as City's 1.

17 (EXHIBIT 1 DEFENDANTS' MARKED FOR ID)

18 MR. MCHUGH: I thought we should, for the
19 sake of clarity in case there are any issues, we
20 should put in the document requests also. I have an
21 e-mail form of document requests Numbers 24, 25, 26.
22 Those are the ones of the order. I'll put that in as
23 Defendant's 2. Well, we could put the actual -- I'll
24 withdraw this one then.

25 MS. SABATINI: This is also our response.

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1 MR. MCHUGH: So we'll put this in. We're
2 really talking about Requests 24, 25, 26. That's what
3 the order goes with.

4 MR. GAGLIARDI: I think it was 23, 24,
5 25, 26.

6 MR. MCHUGH: What is 23?

7 MR. APTT: Performance reviews.

8 MR. MCHUGH: That's fine. We'll add 23
9 to that.

10 (DEFENDANTS' EXHIBIT 2 MARKED FOR ID)

11 MR. GAGLIARDI: We have a lot of people
12 in the room today. I think it's appropriate if
13 everybody introduce themselves for the record. My
14 name is Mark Gagliardi. I represent the Plaintiff,
15 Mark Mancini.

16 MR. APTT: Jeff Aptt, associate attorney
17 here.

18 MR. MANCINI: Mark Mancini, Sergeant with
19 the Providence Police Department.

20 MS. SABATINI: Assistant City solicitor
21 Kate Sabatini representing the City and Colonel
22 Clements.

23 MS. HUGHES: Jennewa Hughes, legal intern
24 at the City Solicitor's Office.

25 MR. MCHUGH: Senior assistant solicitor

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1 Kevin McHugh representing the Defendants, Hugh
2 Clements, Chief of the Providence Police Department.

3 Q. Colonel Clements, have you ever been deposed
4 before?

5 A. Yes.

6 Q. When?

7 A. Many years ago in a case with the performance
8 of my duties with Attorney Joe Penza and Mike
9 Collucci, on several occasions years ago.

10 Q. How many years ago?

11 A. More than ten.

12 Q. So maybe your memory is a little rusty about what
13 the process is. Let me take a minute to explain what
14 is going to happen. I'm going to ask you questions.
15 The woman sitting to my right, her name is Elizabeth.
16 She is a court stenographer. She is going to be
17 transcribing all my questions and all of your
18 responses verbatim.

19 So rule Number One is all your answers have to be
20 verbal. No shaking the head, no nodding, no un-huhs,
21 because as capable as the court reporter is, she's not
22 going to be able to transcribe that, okay?

23 Rule Number Two, you must respond to all of my
24 questions, unless your attorneys instruct you not to.
25 From time to time they're going to be objecting. So

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1 rule Number Three is I ask that you wait to hear the
2 whole question before you respond. Because sometimes
3 you might think I'm going in one direction and I'm
4 going in a different direction. It's not because I'm
5 trying to trick you. It's just the way our minds work
6 differently. That's all.

7 Rule Number Four, you can leave the room at any
8 time. You cannot leave while a question is pending.
9 So if you need to leave the room to use the men's
10 room, just ask. Last rule is I ask that you not
11 guess. If you don't know the answer, just say you
12 don't know the answer. Okay?

13 A. Understood. Thank you.

14 Q. The relevant time period is going to be from 1994
15 to the present time, which I'm going to represent to
16 you is Sergeant Mancini's tenure on the police
17 department.

18 A. Okay.

19 Q. Are you taking any medication, or do you have any
20 medical condition that might impact your ability, your
21 memory or your ability to testify today?

22 A. No.

23 Q. Have you ever been a party to a lawsuit? I don't
24 mean as Police Chief. You probably have been named
25 before, but in your personal life; have you ever been

1 a party to a lawsuit, plaintiff or defendant?

2 A. Maybe many, many years ago. I can't recall.

3 Maybe a car accident at best. Beyond that, no.

4 Q. Now, in this case you're being sued individually;
5 you're aware of that?

6 A. Yes.

7 Q. Have you ever been sued before in your capacity
8 as the, as an employee of the Providence Police
9 Department or City of Providence?

10 A. Yes.

11 Q. Can you tell us about that?

12 A. That was with a vehicle pursuit many years
13 ago. I was in the uniform task force represented by
14 the City's attorneys, Joe Penza and Mike Collucci.
15 There was a civil suit filed against the Providence
16 Police Department and me and some other police
17 officers individually.

18 Q. Okay. That was a motor vehicle pursuit?

19 A. Correct.

20 Q. Any other times that you were named as an
21 individual defendant during your line of duty?

22 A. No.

23 Q. What was the result of that lawsuit?

24 A. We prevailed, the police department and the
25 City with no judgment whatsoever on me.

1 Q. Was there a trial?

2 A. It was a trial, yes.

3 Q. There was a judgment for --

4 A. Federal Court.

5 Q. It was a judgment for the City?

6 A. Yes.

7 Q. Okay. Do you know how long ago that was?

8 A. I'm going to say late '80s. I was a
9 patrolman on the task force.

10 Q. Did you have to testify at trial?

11 A. Yes.

12 Q. Did you discuss this lawsuit with anyone prior to
13 today, other than your attorneys?

14 A. Maybe some of the command staff. Not at
15 length. Commander Tommy Oates.

16 Q. Okay. I want to caution you not to divulge the
17 substance of any conversation you had with the
18 attorneys. I am interested in knowing what you talked
19 about with Tommy Oates before today. When was the
20 last time you talked to Tommy Oates about this
21 lawsuit?

22 A. Very general conversation this morning. I
23 told him -- he didn't even know until this morning
24 that I had the deposition for the Mark Mancini case.
25 I told him I was coming over. I would be in my office

1 with my door closed reviewing some notes.

2 I just gave him some general assignments I needed
3 completed while I was in the office, and he was
4 getting on with his day.

5 Q. What is his current position?

6 A. He is the Deputy Chief. We call him the
7 Commander, but he is the Number Two on the Providence
8 Police Department, Deputy Chief.

9 Q. So what are his job duties as Deputy Chief?

10 A. He carries out under my command the overall
11 function and operational plan of the Providence Police
12 Department with the three major divisions,
13 administrative, uniform and investigative, as well as
14 all coordination with outside agencies pertaining to
15 the City of Providence and the community.

16 Q. Did you and Commander Oates have any discussions
17 about the merits of Sergeant Mancini's lawsuit?

18 MR. MCHUGH: Objection as to form. You
19 can answer.

20 A. No.

21 Q. Okay. Was the substance of your communication,
22 just to inform him you were coming to a deposition?

23 A. Yes, correct.

24 Q. Did you speak to the attorneys before this
25 deposition in preparation for this deposition?

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1 A. Yes.

2 Q. Did you meet with them?

3 A. Yes.

4 Q. When and for how long?

5 A. Today's Wednesday. Monday for a little over
6 one hour, maybe an hour and-a-half.

7 Q. Did you participate in responding to discovery in
8 this case? Do you know what I mean by that?

9 A. Yes, I did.

10 Q. Well, let's make sure I understand, we're using
11 the same terminology. So discovery is when the
12 parties request the other side to produce documents
13 and to answer interrogatories. So Sergeant Mancini
14 requested documents, and the City produced some
15 documents. Did you participate in collecting those
16 documents?

17 A. Only in the one pertaining to me. The ones
18 pertaining to the IOD status, no, I did not
19 participate in. Or responses required from the City I
20 did not participate in.

21 Q. All right. I didn't follow the first part. Can
22 you say that again?

23 A. Only the responses required from me as Chief
24 of Police, not the ones required from Sergeant Grenada
25 with the Human Resources Department.

1 Q. So which ones were required by you to respond to?
2 I'm sorry, are you talking about the interrogatories?

3 A. Yes, yes.

4 Q. So that was bad on my part. We propounded
5 interrogatories, which were a list of questions that
6 had to be answered under oath. We propounded a set to
7 the City and then a set to you. Okay? You responded
8 to your interrogatories, correct?

9 A. Correct.

10 Q. Then did you assist the City in formulating their
11 responses to the interrogatories?

12 A. Just through my department. Me, personally,
13 no. Just through the sergeant.

14 Q. Then we made several document requests where we
15 asked the City to produce documents. Did you
16 participate in that?

17 A. Minimally. That would have been done mainly
18 through the human resources department.

19 Q. Did anybody ask you to collect documents in
20 response to Sergeant Mancini's document request?

21 A. The only documents I prepared for the City
22 were when I answered questions relative to my
23 interrogatories.

24 Q. So you didn't, nobody asked you to go look for
25 documents?

1 A. Not that I recall.

2 Q. Okay. Just some background information. Your
3 date of birth?

4 A. 5/10/57.

5 Q. Your marital status?

6 A. Married.

7 Q. Your highest level of education?

8 A. A Master's degree from BU.

9 Q. When did you start working at the Providence
10 Police Department?

11 A. May of 1985.

12 Q. Where did you work before Providence Police
13 Department?

14 A. I worked at the Rhode Island Training School
15 in the youth correctional center.

16 Q. What was your position there?

17 A. I was a YCO, a youth correctional officer.

18 Q. Do they call that now a JPW?

19 A. I'm not sure. I'm still familiar with the
20 administrator who was there when I was there. I know
21 they changed the buildings. I'm not sure what the
22 title of the staff is.

23 Q. How long did you work there?

24 A. Three years.

25 Q. Where did you work before that?

1 A. I had many jobs. Almacs. I did --

2 Q. Was that your first full-time job?

3 A. Yes, my first real full-time job.

4 Q. First real job?

5 A. Yes. Many unreal jobs.

6 Q. Then you went, you became a police officer after
7 you worked for the Rhode Island Training School,
8 correct?

9 A. Correct. The only other job I would mention
10 is I spent several seasonal years with DEM, Department
11 of Environmental Management, where I worked as a park
12 police officer, which gave me an interest in law
13 enforcement. I spent probably five or six years
14 there. Then I attained the full-time job with the
15 state as a YCO at the Training School.

16 Q. When did you graduate from the -- you went to the
17 Providence Police Academy?

18 A. Yes.

19 Q. Tell me about that.

20 A. So there's three academies in the State of
21 Rhode Island, Rhode Island State Police, Municipal
22 Academy where everybody goes to except Providence and
23 State Police. So I, as Mark did, went to the
24 Providence Police Academy in January of 1985. I was
25 sworn in in May of 1985.

1 Q. So let's talk about your employment at the
2 Providence Police Department. Why don't we start with
3 all the positions that you've held from the beginning
4 to the present time. We'll start at the beginning.

5 A. Okay. I was sworn in as a night third grade
6 patrolman. I worked wherever they had a need, in a
7 car post or a foot post in the City in the night
8 division for a couple of years.

9 The administration started a uniform task force,
10 a hand-picked unit. I was chosen by one of the
11 sergeants to be on one of the eight-man teams. So I
12 worked in a uniform capacity in the neighborhood
13 response team. From there --

14 Q. So those were two separate jobs?

15 A. They're both within the Uniform Division
16 Patrol Bureau, but one is a separate task.
17 Specialized task force in uniform.

18 Q. How long did you work at a night third grade
19 patrolman?

20 A. Two years.

21 Q. Okay. What about the uniform task force; how
22 long were you there?

23 A. Probably a year and-a-half to two years.

24 Q. Okay.

25 A. Then I went to, was chosen to go to a

1 plain-clothes assignment in the Narcotics Division,
2 Special Investigations Bureau, SIB. That's what it
3 was called then. Worked there for a little over a
4 year.

5 I took a test for, a formal written test for the
6 detectives. I believe that was in 19, late 1990. I
7 made detective. I worked as a night detective.

8 Q. Okay.

9 A. They administered a sergeants test in -- I
10 was on the sergeants list, then I went to sergeant in
11 the Uniform Division Patrol Bureau from 1992 to 1995.
12 I basically worked the Central Station and Sub One,
13 which is South Providence and downtown, Broadway,
14 Hartford, Olneyville, Silver Lake, Cranston Street
15 section.

16 Q. How long were you there?

17 A. Three years. Then there was an opening in
18 detectives for a sergeant. There was a huge, a mass
19 bailout of senior employees who left due to a contract
20 situation. Many older detectives left, and I went to
21 detectives as a Detective Sergeant.

22 Q. How long were you there for?

23 A. I want to say seven years, about.

24 Q. Okay. What was your next position after
25 detective?

1 A. Then I made the lieutenants list, and I went
2 back to patrol. I worked the midnight shift for a
3 little over a year. We had a change of leadership in
4 the police department, and Colonel Esserman came and
5 he went to a decentralized police department.

6 We had lieutenants work as district commanders or
7 mini police chiefs in their respective areas. I was
8 chosen to go to District 5 which was Olneyville,
9 Hartford, Silver Lake. That's where I spent a couple
10 of years as the District Commander, Lieutenant
11 District Commander of District 5.

12 Q. Okay.

13 A. Then from there, there was some other
14 movement on the job. There was an opening for a
15 lieutenant in detectives. Major Campbell had asked if
16 I would be willing to come back to detectives. Kind
17 of reluctantly I did. I went back to detectives as a
18 Lieutenant. Shortly thereafter, I made Captain while
19 I was in the detectives, and stayed there.

20 Q. Okay.

21 A. Then from there, I made Major and was moved
22 from detectives to the Homeland Security Division.
23 Stayed just about a year, maybe a little bit longer.
24 Then Deputy Chief and Chief.

25 Q. Who were you Deputy Chief under?

1 A. Colonel Esserman.

2 Q. That was your predecessor?

3 A. Yes.

4 Q. What happened to Chief Esserman?

5 A. Chief Esserman left under a little bit of a
6 scandal. On his own, he retired and resigned from the
7 job.

8 Q. When did you become Police Chief?

9 A. They named me at that point -- I think it was
10 late June. I want to say it was June 27 of 2011. I
11 was formally named Acting Chief. The department put
12 out a national search for a permanent chief, and late
13 December I went for my interview and they announced to
14 me that I was chosen as the Chief. I started right
15 after the New Year of 2012.

16 Q. How did you learn how to do your job as the
17 Police Chief?

18 A. Through my administrative functions in
19 working in detectives as a Captain running several
20 bureaus, and when I moved over to Homeland Security, I
21 worked in an office directly next to Commander Paul
22 Kennedy, Colonel Dean Esserman.

23 We had countless meetings with the command staff,
24 both as a Major when I was assigned a major as well as
25 in my role as a Captain and Lieutenant. I worked very

1 closely with Major Steve Campbell when he was my boss
2 when I was a Lieutenant and Captain in detectives.

3 Q. How different is your job as the Chief of the
4 Providence Police Department as opposed to being a
5 Lieutenant? I mean, there has to be a big difference?

6 A. It is a big difference. The Lieutenant in
7 the decentralized district approach was sort of a mini
8 police chief. But certainly to take on the task of
9 the entire City and the entire job is an, obviously,
10 much more difficult task.

11 Q. Did the City send you for any training anywhere?

12 A. Yes. I went to --

13 MR. MCHUGH: Objection as to form. Time
14 frame.

15 Q. When you were named Acting Police Chief -- strike
16 that. When you became the Police Chief in January of
17 2012, when you were named the official Police Chief,
18 did the City send you for any training so that you
19 could learn how to do your job?

20 A. Then, no. Prior to that when I was a
21 Captain, the City sent me to a leadership school put
22 on by PERF, Police Executive Research Forum, which is
23 a well-recognized police leadership school put on by
24 Boston University and the Harvard Kennedy School of
25 Government. It's a three-week live-in program that I

1 went to when I was a Captain with the police
2 department.

3 Then later I ended up going to, actually, the
4 Kennedy School of Government at the state and local
5 government leaders flagship program at Harvard, the
6 Kennedy School of Government.

7 Q. Did you ever, when you became the Police Chief
8 permanently, did you ever have a meeting with Chief
9 Esserman for the purposes of sort of learning the
10 ropes from him?

11 A. Yes.

12 Q. Tell me about that; when did you have that
13 meeting, or how many meetings were there?

14 A. When I was at a low range of Captain, Major
15 and then certainly when he chose me through an
16 interview process to be the Deputy Chief, he talked to
17 me several times and told me he thought I had the
18 necessary skills and leadership ability to be the
19 Chief of Police some day. He spoke to me at length
20 oftentimes.

21 Q. But my question is, when he resigned and then you
22 became interim Chief and then at some point the
23 permanent Chief, did you ever sit down with Esserman
24 and say, Hey, I would like to, you know -- I have some
25 questions for you. I would like to learn specifically

1 how to do this job?

2 A. I did. You know, he briefed me.

3 Q. Okay. When did that meeting take place?

4 A. Shortly after he left. I can remember
5 meeting him for lunch on Thayer Street, was one
6 occasion, at the Paragon Cafe. We went to lunch. The
7 lunch led into a meeting after that. I had several
8 sessions with him. I obviously don't recall exactly
9 where and when, but I spoke to him often.

10 Q. Okay. Tell me about some of the things you
11 talked about with him.

12 A. He spoke about how difficult the task of
13 Chief of Police and the job of running a large agency
14 can be. He coined it often, It's lonely at the top,
15 in that you end up making decisions that fall on your
16 lap, that, you know, are difficult at times, but you
17 do the right thing for the agency. You do the right
18 thing for the City.

19 In the end it's a, you know, it's a big-picture
20 look. You try to do the right thing for the agency to
21 move forward.

22 Q. Did you and Chief Esserman talk about how police
23 officers are promoted within the police department?

24 A. Yes.

25 Q. Tell me about that discussion.

1 A. There's been a movement afoot for at least
2 20 plus years.

3 MR. MCHUGH: Objection as to form. I
4 want to be clear about what time frame are you talking
5 about, because he was Deputy under Esserman. So I
6 don't know if you're asking him about this Paragon and
7 subsequent meetings or --

8 Q. Yes. So at these meetings that you just
9 testified about where you met with Mr. Esserman at
10 Paragon, then you had some subsequent meetings, tell
11 me about your discussions about promoting police
12 officers within the police department within those
13 meetings.

14 A. There have always been conversations with
15 Colonel Esserman and many in the command staff and
16 many on the job about the promotional process and what
17 is the best way compared to the way that we do it now.
18 He's kind of a global-type guy. He's been around
19 nationally.

20 He would always discuss ways that other similar
21 size or even smaller departments promote their best
22 people and the way we do it here. We're strictly
23 bound by a contract depending on the rank you're
24 studying for.

25 Q. When you say you're bound by a contract, you mean

1 the collective bargaining agreement between the City
2 of Providence and the union?

3 A. Yes.

4 Q. We'll get to that in a minute. We'll talk a
5 little bit more about that a little bit later, about
6 the promotional process. Does the police department
7 currently administer performance evaluations to police
8 officers?

9 A. Yes.

10 Q. Tell me about that process.

11 A. There's a formal evaluation form to be
12 completed at year's end by commanding officers with
13 their respective bureaus and divisions.

14 Q. I noticed in reviewing the documents that were
15 produced in this case that there were not a lot of
16 performance evaluations in past years. Do you know if
17 this, how long has this policy been in effect, to your
18 knowledge?

19 A. I can't be sure.

20 Q. Okay. Did you and Chief Esserman discuss
21 administering performance evaluations during those
22 meetings you testified about earlier?

23 A. Yes.

24 Q. Tell me about your discussions about
25 administering performance evaluations.

1 A. He felt it was important to have a yearly
2 evaluation from bottom to top to assess the personnel.
3 This was bounced around the command staff many years
4 prior.

5 They came up with a formal document to be
6 completed by the respective supervisors, and as time
7 went on many in the agency felt that the evaluation
8 form was ineffective, that particular one.

9 Q. Do you know how long the Providence Police
10 Department has been administering performance
11 evaluations to police officers?

12 A. No.

13 Q. Have you, since you became Chief in January 2012,
14 has the police department administered performance
15 evaluations to police officers?

16 A. We did in the beginning, in 2012. I believe,
17 again, there was quite a bit of conversation
18 surrounding the inequities of that particular process
19 and form. So we abandoned the evaluation for one year
20 and re-devised a new evaluation form and process.

21 Q. When did that go into effect?

22 A. Last year.

23 Q. 2014?

24 A. Yes.

25 Q. So no evaluations of police officers were done in

1 2013?

2 A. Can't be positive on the year, but I know
3 there was one year where there were no evaluations.

4 Q. Okay. Is it your intention that the police
5 department administered performance evaluations at the
6 end of this year?

7 A. Yes.

8 Q. What about during the times where you were --
9 strike that. Before you became Police Chief, in your
10 capacity as a Lieutenant was it ever your
11 responsibility to administer performance evaluations
12 of subordinates, people that worked under you?

13 A. Yes.

14 Q. Do you recall how many years during your
15 employment as a supervisor that you were required to
16 administer performance evaluations?

17 A. I can't be positive, but I know that it was a
18 mission of Colonel Esserman to make sure that was
19 done. So I know shortly after he took over we started
20 administering those on a regular basis.

21 Q. When did he become Police Chief?

22 A. 2002.

23 Q. Do you know if the Providence Police Department
24 administered performance evaluations to police
25 officers during the time period 2002 to 2012?

1 A. I don't know what years, to be positive.

2 Q. It's your testimony that Chief Esserman desired
3 that to happen, correct?

4 A. Correct.

5 Q. But you don't know if it was actually done?

6 A. I don't know if it was done right away. I'm
7 not sure which year we began formally administering
8 the process. I know when he first came he felt it was
9 important. I'm not sure when he officially made that
10 a policy of the department. I don't know what year.

11 Q. What is the process right now as we speak for
12 administering a performance evaluation; how does that
13 work?

14 A. So each employee, depending on their
15 respective rank, will be assessed by their
16 supervisors, then their sergeant they may work for on
17 their respective shift, the lieutenant they may work
18 for in the respective districts. The lieutenant they
19 may work for in a respective shift, because we have
20 four shifts, actually. Then the captains and majors
21 involved with the division will review it.

22 Q. Why don't we do this? Let's talk a little bit
23 about the chain of command at the Providence Police
24 Department. I saw there was, it was called a Table of
25 Organization, I believe. Do I have that correct?

1 A. Organizational chart.

2 Q. Something like that. I didn't quite understand
3 it. Maybe you could tell us how the chain of command
4 works at the Providence Police Department. Let's talk
5 about, I'm more concerned with the police officers
6 than I am with people, the folks that work in the
7 administration. So you have, patrolmen are at the
8 bottom; is that correct?

9 A. Correct, uniform patrol.

10 Q. To whom do they report?

11 A. They're traditionally more junior. They
12 report to and work for on a street level their
13 sergeants, uniform sergeants.

14 Q. How many patrolmen are under a sergeant
15 typically?

16 A. Typically in a district, four or five. But
17 there are many sergeants who end up supervising more
18 than one district during the course of a day. So they
19 could have as many as ten or fifteen that they cover.

20 Q. To whom does the sergeant report?

21 A. If it's a day sergeant, he would report to a
22 day lieutenant who's involved, whose title is the OIC,
23 officer in charge, for that shift. So we have
24 lieutenants who are OIC. Then as well, we have
25 lieutenants who are district commanders. So in

1 essence, a sergeant could have two or more lieutenants
2 that he answers to, because he works in a district,
3 but he also works on a shift.

4 District lieutenants, again, act as a mini police
5 chief. They may work days or nights.

6 Q. What is the difference between a lieutenant who
7 is an officer in charge and a district commander?

8 A. Before we went to a decentralized police
9 department, all lieutenants were, worked on a shift.
10 They worked by hours. So you either worked 7 to 3,
11 3 to 11 P, or 11 P to 7 a.m. When we decentralized,
12 several lieutenants were chosen to be district
13 commanders. Their hours were flexible.

14 Being a large organization, we always need the
15 structure where we have someone in charge of the City
16 at all times. So lieutenants are in charge of the
17 City. They're shift commanders. Presently today we
18 may have one or two lieutenants who are in charge of
19 the entire City, but as well we may have as many as
20 four or five district commanders working days.

21 Then maybe tonight at 3:00 we'll have a shift
22 commander, an OIC, a lieutenant. We may even have a
23 captain, a night captain working tonight. Then as
24 well there may be one, two, three or four district
25 commanders tonight. Their hours are flexible.

1 Q. Does a sergeant perform the same job duties as a
2 patrolman, other than just having a supervisory duty?

3 MR. MCHUGH: Objection as to form. You
4 can answer.

5 A. No. He performs a different job. He
6 supervises and runs the operation on a street level
7 for that district and for those men and women.

8 Q. But the sergeant's job duty is still to make sure
9 that there is no crime, right?

10 A. Correct.

11 Q. Okay. What's the difference between a sergeant's
12 position and a lieutenant's position?

13 A. Lieutenant's position is, involves more of
14 getting into the command staff, getting into the staff
15 level of the police department. The main difference
16 is oftentimes because of the shifts they work, they
17 oftentimes act as the chief of police on their
18 respective OIC shift or their district commander
19 shift.

20 Q. Are lieutenants, do lieutenants go out in the
21 street and prevent crime from happening; is that part
22 of their job duties?

23 A. Not so much. They're mainly more in a
24 supervisory role.

25 Q. Do they wear uniforms?

1 A. Yes, those who work in the uniform division.
2 We have lieutenants who work in plainclothes who
3 don't.

4 Q. Are the lieutenants out, you know, in the field
5 driving police vehicles, police officer vehicles?

6 A. Yes.

7 Q. But their role is more just supervisory; is that
8 correct?

9 A. Correct.

10 Q. What's above lieutenant?

11 A. Captain.

12 Q. Captain. What is a captain's role?

13 A. The captain's role is to carry out the
14 mission, policies, protocol, impose discipline as well
15 as lieutenants, but everything is bumped up towards
16 the top. The captain oversees. There may be only one
17 captain in an entire division, but he oversees the
18 more global operations of his respective sphere of
19 influence, whether it be patrol, investigative or
20 administrative.

21 Q. Then above the captain?

22 A. Is a major.

23 Q. Okay.

24 A. There was one major in charge of each of the,
25 we used to have four divisions. We now have three.

1 So there is a major in charge of the administrative
2 division, one in charge of the uniform division, and
3 one in charge of the investigative division.

4 Q. Okay. Above the major?

5 A. Is the deputy chief or commander.

6 Q. Then above deputy chief commander?

7 A. He reports directly to me, the Chief of
8 Police. So the deputy chief reports to the chief of
9 police.

10 Q. Okay. Does the Providence Police Department
11 utilize progressive discipline?

12 A. Yes.

13 Q. Tell me, can you describe that practice or
14 policy?

15 A. Sure. We try to be as consistent as we can
16 in discipline. It's always easy to argue back and
17 forth and compare acts of malfeasance on the part of
18 officers, but we do have progressive discipline,
19 whether it be car accidents, verbal abuse on the
20 street by police of somebody from the community, or
21 over-aggressiveness.

22 But by all accounts, we try to be reasonable and
23 make discipline progressive with verbal admonishment
24 and written, and day suspensions, and lengthy days
25 suspensions, and eventually, unfortunately, sometimes

1 termination or demotion. Demotion would probably be
2 right before termination. That's a pretty significant
3 imposition of penalty.

4 Q. How did you learn about this progressive
5 discipline policy?

6 A. Through my years on the police department and
7 through my years of studying leadership books for law
8 enforcement.

9 Q. Is this set forth in the CBA?

10 A. No. Progressive, no.

11 Q. Is it a written policy that the police department
12 has?

13 A. Yes.

14 Q. So who can discipline police officers; who has
15 the authority to discipline police officers at the
16 Providence Police Department?

17 A. Again, ultimately the Chief of Police. All
18 final acts of discipline pursuant to the City of
19 Providence Charter are covered through the
20 Commissioner of Public Safety.

21 Q. How do you as the Providence, the Chief of the
22 Providence Police Department become aware when someone
23 is disciplined in the police department?

24 A. Just to give you a little background and to
25 explain, we're a large department. Many acts of

1 discipline, could be very minor in nature. I may find
2 out from a lieutenant or captain in a respective
3 division verbally. They could handle it.

4 They'll put something on paper and forward it to
5 the Internal Affairs Division, so it may be handled by
6 somebody in a respective division or bureau, or it may
7 be forwarded to Internal Affairs.

8 Q. What are the super -- who is authorized to issue
9 discipline; is a sergeant authorized to issue
10 discipline?

11 A. He has to bump it up his respective command.
12 He can informally impose discipline if it doesn't
13 reach a level where his supervisors need to be aware.

14 Q. When you say informally, do you mean issue a
15 verbal warning?

16 A. Yes. If somebody missed a call or not
17 answering their radio, you know, putting you on notice
18 verbally, You need to pay attention to your radio.

19 Q. Sergeants are required to document verbal
20 warnings?

21 A. No, they're not required.

22 Q. Okay. Can a sergeant write a, issue a written
23 warning?

24 A. No. He can recommend.

25 Q. Who can issue written warnings at the Providence

1 Police Department?

2 A. Presently the way it's done, it's through the
3 captain or majors involved in those respective
4 divisions.

5 Q. What about lieutenants; can they issue written
6 warnings?

7 A. They can. If the captain or major approve of
8 it, yes. That certainly would be vetted through a
9 higher rank of captain or lieutenant.

10 Q. So at what point do you as Chief of Police become
11 apprised of a written warning?

12 A. When a formal document has to be signed and
13 forwarded to someone's 201 file, a personnel file.

14 Q. Can you just explain what a 201 file is?

15 A. It's basically a personnel file where we keep
16 all documents related to an individual's performance
17 over the years, whether it be acts of good deeds and
18 commendation and merits of, memorandum of merits as
19 well as other documents from the police department
20 pertaining to discipline, or any information about the
21 employee that could be relative to his status in the
22 agency.

23 Q. Is a 201 just a fancy name for police officer's
24 personnel file?

25 MR. MCHUGH: Objection as to the form,

1 use of the word fancy. You can answer.

2 A. Yes.

3 Q. Yes?

4 A. Yes.

5 Q. So if someone is issued a verbal warning, that is
6 not something that necessarily will come to you,
7 correct, as Police Chief?

8 A. Correct.

9 Q. It may, it came up in conversation?

10 A. Correct.

11 Q. But every time a written warning is issued to a
12 police officer you become aware of that, or you should
13 become aware of that?

14 A. I should become aware of that, yes.

15 Q. Do you know where the 201 files are stored,
16 physically maintained?

17 A. Yes. In the Office of Human Resources with
18 Sergeant Grenada.

19 Q. How do you communicate with the people that work
20 under you?

21 A. Predominantly through the Deputy Chief,
22 Commander Oates.

23 Q. What I mean is, do you use e-mail?

24 A. Sometimes.

25 Q. So how would you get apprised that a written

1 evaluation was issued; would you receive it in an
2 e-mail; would it be in your mailbox?

3 A. Probably in person. I mean, the command
4 staff and pretty much everybody in the whole building,
5 I have an open-door policy. That door is open.
6 People come into the office all the time if they see
7 my office open. They'll say, Good morning, Good
8 afternoon, I have one for you to take a look at and
9 review, and I'll hopefully sign. So oftentimes in
10 person.

11 Q. Is it your policy, is it the department's policy
12 that you, Chief Clements, has to sign off or approve
13 every written discipline action?

14 A. Again, I should sign off on every single one,
15 yes.

16 Q. What do you do with that written disciplinary
17 action after you sign it; do you maintain a copy for
18 yourself?

19 A. I don't. Human resources would, and
20 oftentimes the supervisor of their respective command
21 would keep a copy.

22 Q. How often do you meet with your command staff?

23 A. Three or four times a week. Formally, we
24 have a formal meeting every Monday.

25 Q. Tell me who is, who do you formally meet with

1 every Monday, the names of the people you meet with
2 and their positions.

3 A. We meet with Deputy Chief Oates, three majors
4 presently are Major Tom Verdi, Major Frank Colon,
5 Major David Lapatin. Then as well at these meetings
6 we have the captains. That would be Captain Bill
7 Campbell, Bob Lepre, Oscar Perez, Anthony Sauro,
8 George Stamatakos. I'm forgetting one.

9 Q. Tell me about some of the discussions that you
10 would have at these -- strike that. What would you
11 call these meetings?

12 A. If I could add also at that meeting, Sergeant
13 Grenada does come to go over the board. We keep an
14 updated list of the organizational chart of the police
15 department, which is, they have pins on the board,
16 magnet pins on the board to identify movement
17 throughout the agency. So Sergeant Grenada also
18 attends.

19 Q. Is he, my understanding is he's head of human
20 resources?

21 A. Correct.

22 Q. Okay. What do you call these meetings?

23 A. Command staff meeting. Actually, staff
24 meeting. The command staff would be majors and above,
25 but staff meeting.

1 Q. Okay. Tell us about some of the things that you
2 would discuss at these meetings, some of the topics of
3 discussion.

4 A. One more addendum to my answer is we would
5 also have the finance person. She has recently left
6 the public safety side. Gina Costa would sit in on
7 all of these meetings.

8 What we would discuss at these meetings are the
9 finances from the previous week, overtime called back
10 expenditures, grant monies that we have available,
11 what their deadlines are to run out. Pretty much a
12 financial update.

13 She would go first, and then Sergeant Grenada
14 would give an update on the status of the
15 organization, how many employees we're down to and how
16 many we have out sick, short term, long term, and IOD,
17 short term, long term. After their presentations,
18 they would leave.

19 Then we would discuss basically crime the
20 previous week, crime and activities, meetings.

21 Q. I'm sorry, you say after their presentations they
22 would leave, do you mean Grenada and Gina Costa?

23 A. Correct. Then the police officers would
24 discuss crime, community events, meetings, all
25 police-related activity.

1 Q. When the department would administer promotional
2 exams, is that a topic that would be discussed at one
3 of these meetings?

4 A. We would probably arrange, we would arrange a
5 separate meeting to discuss. That may be discussed at
6 the meeting, but as far as points, that would be a
7 separate meeting.

8 MR. MCHUGH: Could you read that question
9 back?

10 (QUESTION READ BACK)

11 MR. MCHUGH: Thanks.

12 THE WITNESS: Certainly, yes.

13 Q. But then you testified that you would have a
14 separate meeting to discuss, and you said points. Do
15 you mean chief or service points?

16 A. Correct.

17 Q. Who would be present at those meetings?

18 THE WITNESS: For the service points,
19 chief points?

20 MR. GAGLIARDI: Yes.

21 A. That would be a mix. It would certainly be
22 myself, the Deputy Chief, the majors, the captains,
23 whatever captains are available and whatever
24 lieutenants are available.

25 Q. Okay. The 201 files, do you know where they are

1 maintained?

2 A. With Sergeant Grenada.

3 Q. Physically in his office?

4 A. I don't know exactly where he keeps them. I
5 can't answer that accurately.

6 Q. Do you know who has access to 201 files, other
7 than Sergeant Grenada? Who is authorized to have
8 access to 201 files, other than Sergeant Grenada?

9 A. The administrative division presently under
10 the command of Major Colon.

11 Q. Anybody in that administrative division?

12 A. Certainly, yes.

13 Q. Do you know what the process is for reviewing
14 someone's 201 file --

15 MR. MCHUGH: Objection as to form. You
16 can answer.

17 Q. -- or procedure?

18 THE WITNESS: You mean for an individual
19 to request?

20 MR. GAGLIARDI: No. So if somebody -- I
21 want to know who has the authority to look at
22 someone's personnel file, other than the employee.

23 A. Somebody from the command staff would,
24 somebody from Internal Affairs.

25 Q. Do you know, does the department have a process

1 by which a person viewing someone's 201 has to sign
2 out for it, or sign something, or log in to show that
3 they have viewed it?

4 A. They may in that division. Not that I am
5 aware of.

6 Q. Okay. Who would know that information?

7 A. Major Colon.

8 Q. Do you ever have the opportunity or the occasion
9 to view a police officer's 201 file as Police Chief?

10 A. I could.

11 Q. When was the last time you reviewed someone's 201
12 file as Police Chief?

13 A. It's been a long time. I can't recall whose
14 it was, but it's been awhile.

15 Q. Well, you've only been Police Chief for three
16 years, right?

17 A. Three and-a-half, yes.

18 Q. Do you know how many times you viewed someone's
19 201 file?

20 A. I don't.

21 Q. Was it more than ten or less than ten?

22 A. More than ten.

23 Q. Okay. Can you recall the last time you viewed
24 someone's 201 file?

25 A. I can't.

1 Q. Do you know why you viewed these 201 files?

2 A. For varying reasons. It may be discipline.

3 Q. Okay.

4 A. Certainly could be for promotion.

5 Q. All right. So you said that you communicate with
6 your command staff. You e-mail sometimes?

7 A. Yes.

8 Q. Run us through a day in the life of Hugh Clements
9 as Police Chief; tell us about your typical day.

10 A. So my schedule is extremely busy. Probably
11 putting in 60 or 70 hours a week. Come in in the
12 morning, catch up on a couple of e-mails, prepare for
13 the day, whether it be meetings that I have, compiling
14 documents, or a speech I may have to give, or a press
15 conference or a news event. Basically preparing for
16 meetings.

17 Also, there's a lot of conversation between
18 myself and the command staff. So routinely during the
19 course of the day I may talk to Major Verdi five
20 times, six times. Some in person, some on the phone.

21 Q. How often do you get to go out in the field and
22 do police work?

23 A. Not enough.

24 Q. Okay. You're wearing a suit today. Do you wear
25 a suit to work?

1 A. Hardly ever.

2 Q. What do you wear?

3 A. A uniform 98 percent of the time.

4 Q. Okay.

5 A. I have a wake to go to tonight. I'm not sure
6 how long this is going to be; otherwise, I would have
7 been in uniform.

8 Q. When was the last time you spent in the field
9 with police officers doing police work since you've
10 been chief?

11 MR. MCHUGH: Objection as to form, doing
12 police work. You can answer.

13 THE WITNESS: Doing police work?

14 MR. GAGLIARDI: Yes, doing the work, the
15 typical work of a police officer, preventing crime,
16 that sort of thing.

17 A. It's rare, but every single time riding
18 around I have the radio on. If there is a call and
19 I'm nearby, I follow in. If I observe a motor vehicle
20 stop with Providence policemen involved, plainclothes
21 or uniform, I back them up.

22 Q. How do you evaluate the work performance of a
23 police officer if you're not there observing them do
24 their jobs?

25 A. I rely heavily on the critique assessment,

1 review of the people they work directly for.

2 Q. Do you give performance evaluations to the
3 command staff?

4 A. No.

5 Q. Who doesn't get performance evaluations, other
6 than the command staff?

7 A. As far as I know, everyone gets one except
8 the command staff.

9 Q. The command staff would be the three majors and
10 all the captains?

11 A. Correct.

12 Q. But lieutenants get performance evaluations?

13 A. I haven't seen them this year, so I'm not
14 positive on that.

15 Q. If a lieutenant were to get a performance
16 evaluation, who would administer that?

17 A. His captain and major. It would have to be
18 approved by his major.

19 Q. That's because they're in a better position to
20 evaluate the performance than you are, correct?

21 A. Correct.

22 Q. Do you keep your own documentation or records for
23 individual police officers; do you maintain anything
24 like that in your office?

25 A. No.

1 (BRIEF RECESS)

2 (QUESTION AND ANSWER READ BACK)

3 Q. Chief Clements, just a few follow-up questions.
4 You said, I believe you testified, you said the
5 ultimate decision to discipline somebody was with the
6 Commissioner of Public Safety; is that accurate?

7 A. Correct.

8 Q. Can you expand on that, please; what do you mean
9 by that?

10 A. Again, respective of the Charter, if there
11 will be -- mostly it refers to heavy discipline. So
12 the day-to-day discipline, the Commissioner would not
13 get involved in. But the ultimate decision on major
14 discipline is the Commissioner of Public Safety,
15 certainly has to be.

16 Q. Is that who you report to?

17 A. Yes.

18 Q. When you say heavy discipline or major
19 discipline, can you be more specific?

20 A. That would be lengthy suspension of days,
21 weeks, months, demotion or termination. But as far as
22 day-to-day stuff, no.

23 Q. Do you mean that, do you mean that the
24 Commissioner of Public Safety would have to give his
25 or her final approval in order for someone to be

1 issued a heavy or a lengthy discipline?

2 A. Yes.

3 Q. Does that mean that you, Chief Clements, cannot
4 terminate someone unless the Commissioner of Public
5 Safety agrees that the person should be terminated?

6 A. Yes.

7 Q. Another follow-up question. Did you review any
8 documents in preparation for today's deposition?

9 A. Yes.

10 Q. What did you review?

11 A. A pile of paperwork that Kevin and Kate had,
12 we had gone over on Monday afternoon. So the
13 interrogatories and the complaint.

14 Q. So you reviewed Sergeant Mancini's complaint that
15 he filed in Federal Court, right?

16 A. Yes.

17 Q. You reviewed the answers to your interrogatories?

18 A. Yes.

19 Q. Did you review any other documents?

20 A. No.

21 Q. Did you review Sergeant Mancini's personnel file?

22 A. No.

23 Q. Did you review any other officers, police
24 officers' performance evaluations or discipline in
25 preparation for today's deposition?

1 A. No. The only thing I did ask for was the
2 performance evaluations of Sergeant Mancini.

3 Q. Did you review those in preparation for today's
4 deposition?

5 A. Yes.

6 Q. In your opinion, what are some of the qualities
7 that one needs to be a good police officer?

8 A. Needs to be strong-willed, ethically bound,
9 moral.

10 Q. Isn't that the same as ethically bound?

11 A. Yes. Of strong character, and I think
12 today's police officer really needs to be a people
13 person.

14 Q. What do you mean by strong-willed?

15 A. To do the right thing. To, you know, go out
16 in the field and make a decision based on what is
17 right for the community as a whole or the department
18 as a whole.

19 Q. Anything else, other than what you just
20 mentioned?

21 A. No.

22 Q. In your experience and in your opinion, what are
23 some of the things that a police officer can do that
24 shows poor work performance?

25 MR. MCHUGH: Can you read back that

1 question?

2 (QUESTION READ BACK)

3 MR. MCHUGH: Thank you.

4 A. It's pretty general, but overall lack of
5 knowledge of policies, rules, regulations and
6 following those; being abusive to or disrespectful to
7 others in the workforce or members of the community.
8 Generally having a poor attitude.

9 Q. I would assume that violating a citizen's rights
10 is at the top of the list, correct?

11 A. Yes.

12 Q. Reckless conduct?

13 A. Yes.

14 Q. Insubordination?

15 A. Yes.

16 Q. Poor attendance?

17 A. Yes.

18 Q. Stealing?

19 A. Yes.

20 Q. Let's talk about Sergeant Mancini. When did you
21 first meet him?

22 A. I don't know exactly when, but probably when
23 he first came on in 1994. I was in the Uniform
24 Division, Patrol Bureau, so I'm sure I met him then.

25 Q. So you've known him for a long time?

1 A. Yes.

2 Q. Before you became Chief of Police, did you have
3 the opportunity to work with him as a police officer?

4 A. I was a sergeant at that point, so yes. I
5 was a uniform sergeant.

6 Q. When was that?

7 A. 1994.

8 Q. Did you have an opportunity to supervise Sergeant
9 Mancini?

10 A. Yes.

11 Q. When, and for how long?

12 A. That would have been about one year in 1994
13 before I went to, back to detectives as a Sergeant.

14 Q. Did you, other than that one year in 1994, did
15 you have any other opportunities to supervise Sergeant
16 Mancini?

17 A. Yes, later.

18 Q. When?

19 A. I believe when I became a Major involved in
20 the Homeland Security Division and then as well in the
21 Uniform Division.

22 Q. How long did you supervise him when you were a
23 Major?

24 A. Short time. Maybe a little bit over a year.

25 Q. Let's talk about when you supervised him in 1994.

1 You were a uniformed Sergeant, and he was a patrolman,
2 correct?

3 A. Yes.

4 Q. He just started out as a police officer, right?

5 A. Yes.

6 Q. Were you able to formulate an opinion about
7 Sergeant Mancini's work performance at that time?

8 A. Generally, yes.

9 Q. What was your opinion of his work performance at
10 the time?

11 A. Decent.

12 Q. Would you say he was at least average?

13 A. Yes.

14 Q. Above average?

15 A. Yes.

16 Q. All right. So he was an above-average patrolman
17 in 1994, right?

18 A. Yes.

19 Q. Did you ever have any problems with him in 1994?

20 A. No.

21 Q. When were you the major in the Homeland Security
22 Division?

23 A. Would have been, I believe -- don't hold me
24 to the date. I believe 2008, 2009.

25 Q. Okay. Let's go back to 1994. How often did you

1 interact with Sergeant Mancini during that one-year
2 period you were his supervisor?

3 A. Not often.

4 Q. Would it be once a week, twice a week?

5 A. I really do not recall.

6 Q. Enough times to be able to formulate an opinion
7 about his work performance, right?

8 A. Yes.

9 Q. When you became, when you were a Major in the
10 Homeland Security Division in 2008 and 2009, Sergeant
11 Mancini, he was a Sergeant at that point, correct?

12 A. Yes.

13 Q. How often did you work with him in your capacity
14 as Major and in his capacity as Sergeant?

15 A. A little bit more often than the previous
16 round. Probably, maybe once a week, once every other
17 week.

18 Q. Were you able to formulate an opinion about
19 Sergeant Mancini's abilities as a Sergeant?

20 A. Yes.

21 Q. What was your opinion of his abilities as a
22 Sergeant?

23 A. He had good abilities as a Sergeant.
24 However, I came into that division at a time when
25 there was a dispute over whether or not he belonged in

1 that unit, replacing a previous member of that unit.

2 Q. Who did he replace?

3 A. Sergeant Vinacco.

4 Q. Who was the dispute between?

5 A. I think between all parties involved.

6 Sergeant Vinacco, Sergeant Mancini and the
7 administration at the time, the Chief's office.

8 Q. Who was that?

9 A. Esserman.

10 Q. You say that Sergeant Mancini replaced Sergeant
11 Vinacco?

12 A. Yes.

13 Q. How did that come about, to your knowledge?

14 A. I don't have all the facts, but I know that
15 Sergeant Vinacco went away on military leave.

16 Q. And Sergeant Mancini took his place?

17 A. Yes.

18 Q. There were some folks that were not happy about
19 that?

20 A. I believe when Sergeant Vinacco came back, he
21 was not happy.

22 Q. Okay. Let's talk about Sergeant Mancini's
23 abilities to perform his duties as a Sergeant when you
24 were supervising him as a Major. Would you say he
25 did, did his performance as a Sergeant meet your

1 legitimate expectations?

2 A. Yes.

3 Q. Did you ever have any problems with him?

4 A. Again, I was only there a very short time
5 with him, but no major problems.

6 Q. Did you ever have to discipline him?

7 A. No.

8 Q. Did you ever have to issue any discipline to him
9 in 1994?

10 A. Not that I recall.

11 Q. Do you ever recall a situation where Sergeant
12 Mancini violated a citizen's rights?

13 A. Offhand, no.

14 Q. Do you recall a situation where Sergeant Mancini
15 engaged in any reckless conduct on the job?

16 A. I represented him when I was a member of the
17 union on a transgression.

18 Q. Okay. Did you ever have any problems with
19 Sergeant Mancini's attendance?

20 A. Not that I recall.

21 Q. Any problems with Sergeant Mancini engaging in
22 insubordination?

23 A. I did notice when I was in Homeland Security
24 he was very upset by what had occurred with him being
25 removed from that assignment to a different

1 assignment. He wasn't insubordinate to me, but he was
2 disrespectful to the administration.

3 Q. Can you be more specific?

4 A. In effect, he was badmouthing the
5 administration for his removal.

6 Q. When you say his removal, that was when Vinacco
7 came back from military leave?

8 A. Yes.

9 Q. So Vinacco replaced Mancini; is that correct?

10 A. Yes. He took over his former assignment,
11 yes.

12 Q. How do you know that Mancini was badmouthing the
13 administration?

14 A. He came to me and asked me why he was being
15 removed. He was upset.

16 Q. Okay. Is that what you mean when you say he was
17 badmouthing the administration?

18 A. He wanted to know who was to blame, who was
19 responsible. Then speaking about individuals, yes, he
20 was upset with Commander Kennedy, the Colonel.

21 Q. Did he say why he came to you?

22 A. Well, he was working for me.

23 Q. Would that be unusual for a subordinate to go to
24 a supervisor when they weren't happy with a personnel
25 decision in your experience?

1 A. No.

2 Q. So how -- I don't understand how he's badmouthing
3 people.

4 A. Well, he thought this was personal. I don't
5 recall exactly what he said about the supervisors. It
6 wasn't just questioning whether or not he was removed
7 from the unit; he was badmouthing. I can't verbatim
8 recall what he said, but he was upset.

9 Q. Okay. I think I asked if he ever engaged in
10 insubordination. You said yes, he was badmouthing
11 people. Now you say that he came to his supervisor to
12 complain about being replaced. Is it your testimony
13 that that constitutes insubordination?

14 A. No.

15 Q. Do you want to take that back? Do you still
16 consider that to be insubordination?

17 A. I would say it certainly could be perceived
18 to be insubordinate, to be badmouthing the Chief and
19 Deputy Chief.

20 Q. Is it fair to say he was coming to you to vent
21 his frustrations?

22 A. Yes.

23 Q. You don't consider that to be insubordination, do
24 you?

25 A. I could. I didn't take it to the next level,

1 but I certainly could have.

2 Q. You didn't discipline him for that?

3 A. No.

4 Q. Okay. What does IOD status mean?

5 A. Injured on duty.

6 Q. Can you describe the process how that works?

7 A. So somebody is injured in the performance, in
8 the proper performance of their duties. They would
9 fill out paperwork and file a claim for that status,
10 injured on duty.

11 Q. Okay. Then what happens next?

12 A. The paperwork would be forwarded through the
13 Human Resources Office. The officer or the employee
14 would seek medical attention, and it would be covered
15 pursuant to the CBA.

16 Q. Were you aware that Sergeant Mancini was on IOD
17 status in 2011, 2012?

18 A. Yes.

19 Q. So how did you become aware that he was on IOD
20 status?

21 A. Basically by being in the command staff
22 conference room. Several times during the week on the
23 board we have an updated status of all employees, what
24 division/unit they're in, as well as the IOD and sick
25 board.

1 Q. That would be Sergeant Grenada's role, to discuss
2 employees that are on IOD status?

3 A. Yes, and to update the board.

4 Q. Do you recall any discussions amongst the folks
5 that were present at those meetings specifically about
6 Mark Mancini being on IOD status?

7 A. Yes. He would report who was on IOD status.

8 Q. Do you recall if anybody made any negative or
9 disparaging comments about Sergeant Mancini, because
10 he was on IOD status?

11 A. I don't.

12 Q. Did anybody express to you any frustration
13 because he was on IOD status?

14 A. I know that Sergeant Grenada was upset with
15 the process back and forth, identifying that it was
16 not as smooth as it should have been.

17 Q. Can you be more specific?

18 A. I just know that he was -- I can't. I just
19 know that it wasn't a smooth process. He was becoming
20 increasingly frustrated with Sergeant Mancini and the
21 back-and-forth with that work status.

22 Q. Did Sergeant Grenada express to you or anyone
23 present at the meeting that he thought Mancini was
24 malingering or staying out for too long?

25 A. He basically continued to express his

1 frustration with the process, the IOD process.

2 Q. Did he think Mancini was not really injured that
3 badly?

4 MR. MCHUGH: Objection as to form. You
5 can answer.

6 A. I'm not sure what he thought, but he never
7 indicated that to me.

8 Q. Well, you said he expressed frustration. Can you
9 be more specific? That's sort of a vague statement.

10 A. With setting up appointments and responding
11 back to the office. There's a lot of paperwork and
12 documentation required from the Sergeant in Human
13 Resources. He was becoming increasingly frustrated
14 with doing his job.

15 Q. Did he express to you or anyone present at the
16 meeting that he thought Mancini wasn't participating
17 in good faith in the process?

18 A. In particular, I don't know what he was
19 referring to. Other than he was -- we're a big
20 agency. We routinely have 20 to 40 people out on that
21 status. It's important for the administration to know
22 how many people are out and how many people we expect
23 back short term or to be out long term.

24 So all I can testify to honestly is to say he was
25 becoming frustrated with that process, with Sergeant

1 Mancini.

2 Q. Did Sergeant Grenada express any frustration
3 regarding the IOD process with any other police
4 officer, other than Sergeant Mancini, to your
5 knowledge?

6 A. Yes.

7 Q. Do you know who?

8 A. Offhand, no. That's part of what we do. You
9 know, we'll routinely update the board. Specific
10 names right here and now, no. I would have to look at
11 the board and go back and research, but yes.

12 Q. Did Sergeant Grenada express an opinion regarding
13 Mancini's specific injury, which was a knee injury?

14 A. No.

15 Q. Did Sergeant Grenada express an opinion that he
16 didn't think Mancini should be out this long, because
17 it was just a knee injury, or words to that effect?

18 A. No.

19 Q. Are you aware that Sergeant Mancini applied for
20 accidental disability benefits?

21 A. Yes.

22 Q. How did you become aware of that?

23 A. Because Sergeant Grenada would update the
24 board and speak about that, what the status was of the
25 IOD people.

1 Q. Would Sergeant Grenada regularly report the
2 status of applications for accidental disability
3 benefits?

4 A. Yes.

5 Q. How often does that happen, a police officer
6 applies for accidental disability benefits?

7 A. Presently, a couple of times a year.

8 Q. Okay. So it's not that often; something that
9 would stick out in your mind, right?

10 A. Maybe.

11 Q. Okay. Do you know if anyone at the Providence
12 Police Department directed Sergeant Mancini to submit
13 the paperwork for accidental disability benefits?

14 A. I believe Sergeant Grenada or somebody in
15 administration did, yes.

16 Q. They directed him to do so?

17 A. What I think they did was followed the CBA.

18 Q. Which is what?

19 A. Which is when you're on light duty status a
20 certain amount of time, then the administration would
21 probably direct that person to file, correct.

22 Q. I'm going to represent to you that Sergeant
23 Mancini testified at his deposition that Sergeant
24 Grenada told him if he didn't file the paperwork for
25 disability benefits that Sergeant Grenada would do so

1 for him. Do you recall Sergeant Grenada stating that?

2 A. I wasn't there, but I'm sure he did.

3 Q. Okay. Was it your understanding, when you say
4 that Sergeant Grenada was frustrated with Sergeant
5 Mancini through the IOD process, was it your
6 understanding, was he also frustrated with him because
7 he wouldn't submit the disability paperwork?

8 A. I can't be sure.

9 Q. I want it correct for the record. It was
10 Sergeant Verdi that instructed Mancini to file the
11 paperwork, not Grenada. I apologize for that. Does
12 that change your testimony?

13 A. No, he may have. It's Major Verdi.

14 Q. Major Verdi. Sorry. Did you have any
15 discussions with Major Verdi about Sergeant Mancini's
16 IOD status?

17 A. Not that I can recall in specific, but we had
18 discussions on the time of majors and captains of
19 respective divisions about people under their command
20 out long-term sick or IOD. It's constant
21 conversation.

22 Q. Did anybody, other than Sergeant Grenada, express
23 frustration with Sergeant Mancini being out on IOD?

24 A. Specifically that I can recall, no.

25 Q. How about yourself; were you frustrated that he

1 was on IOD status?

2 THE WITNESS: Was I frustrated?

3 MR. GAGLIARDI: Yes.

4 A. I was frustrated with the process that was
5 going on with Sergeant Grenada.

6 Q. Did you communicate with anybody via e-mail
7 regarding Sergeant Mancini's IOD status?

8 A. Not that I remember.

9 Q. Since you've been Chief of Police, have you ever
10 communicated with anybody in the department regarding
11 someone's IOD status via e-mail?

12 A. I don't know.

13 Q. All right. Let's talk about promotional exams.
14 I want to go back to something you testified earlier
15 about. It pertains to your meeting with Chief
16 Esserman. You said that there was a movement afoot to
17 promote differently within the department. Did I
18 state that incorrectly?

19 A. Yes. Unfortunately, it's still afoot.
20 There's been conversations going on for 20 plus years
21 about open, open conversations about changing the
22 promotional process.

23 Q. Changing it from what to what?

24 A. We don't know.

25 Q. Well, it's governed by the CBA, right?

1 A. Correct.

2 Q. So it's pretty straightforward, isn't it?

3 A. No, not really. It's changing it from the
4 process we have now to something different, which
5 could be like the Rhode Island State Police where they
6 handpick all of their appointments through the
7 respective rank. That is on the far end of what we
8 do.

9 Or it could be something that a lot of
10 progressive police departments do around the country.
11 They do assessment centers. It's complicated. It
12 really is. It could be one of many things, but it's
13 covered by the CBA. Even when I was involved in the
14 union, we had three separate testing committees to
15 review what it should be. It's just never changed.

16 Q. What don't you like about the way the promotional
17 process is?

18 A. It's not what I don't like. It's what many
19 in the rank and file don't like. It's too much is
20 weighted on the written exam.

21 Q. Okay. Is there concern that too high a
22 percentage is weighted, the 85 percent is weighted on
23 the written exam, or there should be no written exam
24 at all?

25 MR. MCHUGH: Objection as to from. You

1 can answer.

2 A. Again, I sat on some of these committees.
3 When the department was 480 or 490 strong, there are
4 480 different opinions as to what it should be. So I
5 personally think there should be a written exam, and
6 it should be an important part of the process for the
7 respective ranks of sergeant and lieutenant. But
8 there are many who feel that it really should not.

9 Q. All right. So let's talk about how police
10 officers are promoted within the Providence Police
11 Department. Is there a different process for
12 promoting sergeants, lieutenants, detectives,
13 captains?

14 A. Yes.

15 Q. Okay. Is there a different process for promoting
16 sergeants and lieutenants, or is that the same?

17 A. The same.

18 Q. When does the process change, what level?

19 A. From lieutenant to captain.

20 (EXHIBIT A PLAINTIFF'S MARKED FOR ID)

21 Q. Chief Clements, you've just been handed
22 Plaintiff's Exhibit A. I'm going to represent for the
23 record that this is an excerpted portion of the
24 collective bargaining agreement, just to save paper
25 and time. These are Pages 17 to 24. Subpart A is

1 written procedure governing the administration of the
2 promotional exams?

3 A. Correct.

4 Q. Why don't you take a minute to review this?

5 A. Okay.

6 Q. Are you familiar with this?

7 A. Yes.

8 Q. Is this the procedure for promoting police
9 officers to the positions of sergeant and lieutenant?

10 A. Yes.

11 Q. Does it also include position, promotion to
12 detective?

13 A. Yes.

14 Q. In your own words, just explain to us the whole
15 procedure that is involved when the department decides
16 it wants to promote police officers from sergeant to
17 lieutenant; how does it all work?

18 A. We'll set the process in play by notifying
19 the Human Resources Department that we're going to
20 notify the department that we will be promoting that
21 respective rank, detective or sergeant.

22 Q. How does it come about; who makes the decision as
23 to, Okay, we're going to promote some police officers
24 this week?

25 A. The administration does, once we have a

1 shortage pursuant to our organizational chart of
2 manpower. If we become short in a particular rank,
3 we're supposed to maintain an ongoing list for that
4 respective rank.

5 Q. Okay. What happens next?

6 A. Then the administration will start the
7 process of saying that we're going to announce, and we
8 need to put out to bid to a company that administers
9 the exam.

10 Once that's awarded, we will notify the rank and
11 file that we're doing a process for that respective
12 rank, and we'll set the time line for the study period
13 and the date of exam.

14 Q. What is the notification -- I'm sorry, strike
15 that. What is the time period from the notification
16 to the exam typically?

17 A. Six to eight to ten weeks. It's been
18 different for different processes.

19 Q. How would the department notify the rank and file
20 that there is going to be a promotional exam?

21 A. General order. Through a general order.

22 Q. How does the rank and file get that general
23 order?

24 A. It's disseminated throughout the agency
25 presently by an intranet-powered DMS program, and as

1 well through the roll calls, and through the
2 respective commands.

3 Q. Does each police officer have like a mailbox
4 where they get paper documents in?

5 A. No.

6 Q. Was that ever the case; did they ever do that?

7 A. For the supervisors, yes. For the
8 rank-and-file police officer, no. Each police officer
9 does presently have access to this intranet
10 communication throughout the department.

11 Q. Okay. So the rank and file are notified that
12 there will be a promotional exam on such-and-such a
13 date. Then what happens next?

14 A. There is a sign-up process. There is a
15 deadline to sign up. The administration will make a
16 list of people who sign up and who have been deemed
17 eligible to take that test.

18 Q. Under what circumstances is someone not eligible
19 to take a promotional exam?

20 A. If they didn't have a year's worth of service
21 to be a detective, sergeant, or two years in rank.
22 You need to have two years in rank as a sergeant to
23 apply for lieutenant.

24 Some people, it happens on occasion where
25 somebody may think they qualify, because that deadline

1 is respective of the last lieutenant made from the
2 previous list. So you need to have two years on at
3 that point that the vacancy became available.

4 Q. Is being on IOD status a reason that someone
5 wouldn't be eligible to take a promotional exam?

6 A. No.

7 Q. Okay. What happens next?

8 A. Then the date for the test has been given.
9 There is a study period, and they administer the test
10 on the date identified. Prior to that, the
11 administration will compile the education and
12 seniority points of the respective candidates, and
13 they will forward a list to the administration of the
14 people who are taking the test to administer the
15 service points.

16 Q. That's done before the written exam is given?

17 A. Yes.

18 Q. How soon before the written exam are the service
19 points and educational points, seniority points
20 awarded?

21 A. Before the exam. There is no particular
22 deadline. They need to be, the service points need to
23 be administered to the FOP pursuant to the contract
24 prior to the exam.

25 Q. How are they administered to the FOP?

1 A. Typically through fax, the fax.

2 Q. From where to where?

3 A. From the police department to the union hall
4 at 40 Sheridan Street.

5 Q. Okay. Where in the police department; whose job
6 is it to do that?

7 A. The administration. So it may be the major
8 in charge of administration. It may be the lieutenant
9 who falls under the major, or it may be Sergeant
10 Grenada. It's been those particular entities that
11 forward the information to the union on the service
12 points.

13 I can give you an example. You know, if the
14 lieutenant is taking a test, he certainly cannot be
15 privy to the points. So he wouldn't, he may send it
16 three times in a row. Then he doesn't send it
17 because, you know, he is taking a test, or a sergeant.

18 Q. Okay. Then what happens after the exam is given?

19 A. There's a review of the exam. They're given
20 the scores. The candidates are given their scores.

21 Q. Who is reviewing the exam?

22 A. The proctor.

23 Q. The department hires a company to administer the
24 exam, right?

25 A. Yes.

1 Q. Third party?

2 A. Yes. They give the candidates an opportunity
3 to review their exam, and they'll go over it.

4 Q. Okay. Then what happens after the results are
5 given to the candidate?

6 A. If somebody has a question, or a complaint,
7 or a grievance, there's a process for them to follow
8 through and formally file a grievance.

9 Q. A grievance about what?

10 A. An interpretation on a question and/or an
11 erasure. Over the years there have been several
12 disputes about somebody may have indicated they wanted
13 to answer it with a certain letter and I erased it,
14 and it was B and not C.

15 So a neutral arbiter will make a determination,
16 or the test maker will make a determination, This is
17 the one that we're counting. So there are a number of
18 circumstances that could rise to the level of a
19 grievance.

20 Q. Okay. My understanding from reading the CBA is
21 that 85 percent of a candidate's score is the written
22 exam; is that correct?

23 A. Yes.

24 Q. That the other 15 points are comprised of their
25 seniority, which is their length of service on the

1 job, correct?

2 A. Yes.

3 Q. Their level of education is five points?

4 A. Yes.

5 Q. Level of seniority is five points?

6 A. Yes.

7 Q. Then service points, or chief points, are five
8 points, correct?

9 A. Correct.

10 Q. I'm interested in knowing about the administering
11 of the 15 points that I just discussed. How does that
12 happen?

13 A. So after the exam, the test maker will make a
14 list of the scores. So if 15 people took the test,
15 they'll administer a score for each of those
16 candidates. Then we'll allow that grievance period to
17 process before we formally put out a final list.

18 The test needs to be fully adjudicated, and then,
19 in the meantime certainly the administration can be
20 plugging in what the respective points will be for the
21 candidates. As far as education and seniority,
22 they'll already have the service points prior to the
23 exam.

24 Then the final list doesn't come out until that
25 period is over. Then the department will put out a

1 general order indicating what the final list was, what
2 all the points include.

3 Q. There is no discretion in awarding the seniority
4 points; either you've been on the job for a certain
5 amount of time or you haven't, right?

6 A. Correct.

7 Q. Same thing with level of education. If you have
8 a Bachelor's degree, you have five points. There is
9 no discretion in that?

10 A. Correct.

11 Q. With regard to the service points, my
12 understanding is that's at the Chief of Police's
13 discretion?

14 A. Right, correct.

15 Q. Let's talk about that. You testified earlier
16 that you would hold a separate meeting?

17 A. Yes.

18 Q. With the command staff to discuss service points,
19 right?

20 A. Correct.

21 Q. Let's talk specifically about the June 16, 2013
22 lieutenants promotional exam, which is the reason
23 we're all here today. I'm going to represent to you
24 on May 3, 2012, which is about six weeks prior to the
25 exam, Sergeant Mancini was informed that there was

1 going to be a promotional exam. Does that comport
2 with your time frame of when candidates are notified?

3 A. Yes.

4 Q. Okay. How soon before the exam do you meet with
5 the command staff to discuss chief points typically?

6 A. Typically a week or so before the actual
7 exam.

8 Q. Okay. In your words, what are service points?

9 A. It entails the overall performance of that
10 individual officer and what the agency feels that
11 officer should be recommended for pointwise.

12 Q. When you say the overall performance, do you mean
13 their overall performance in their current job?

14 A. In their current job and their ability to
15 work their prospective job. So if they're, to see if
16 they have the ability to perform in that prospective
17 job as well.

18 Q. So if someone is applying, if someone is a
19 sergeant, candidate is a sergeant and he's applying
20 for a lieutenant's position, your job, your
21 responsibility is to award him service points. You're
22 considering his performance as a sergeant and how he
23 would perform as a lieutenant, correct?

24 A. Well, we don't know how he would perform as a
25 lieutenant. It's just his overall performance at that

1 rank. Having in mind that he's attempting to ascend
2 to a higher rank.

3 Q. Okay. I don't think, I don't understand that. I
4 understand you're evaluating him in his current job?

5 A. Correct.

6 Q. I don't understand the second part.

7 A. Can you ask the question again?

8 Q. Sure. Well, let's read it from the CBA; let's do
9 it like that. Page 22, Paragraph 3, I'm reading from
10 the bottom. 5 percent of said promotional examination
11 shall consist of so-called service points. Said
12 service points are to be awarded by the Chief of
13 Police in his sole discretion.

14 The Chief of Police shall take into consideration
15 in awarding these points the member's overall
16 performance as a police officer, including but not
17 limited to, letters of commendation, letters of merit,
18 unused sick time, et cetera, et cetera. I added one
19 extra et cetera. Sorry.

20 Correct me if I'm wrong, we all have different
21 interpretations. I interpret that to be the
22 performance of how they're doing in their current job,
23 and you can include letters of recommendation, letters
24 of commendation -- sorry, letters of commendation,
25 letters of merit, and unused sick time. I don't see

1 any mention about how they might perform in a job
2 they're applying for.

3 A. But certainly we're looking at the overall
4 performance. Having in mind that they're applying for
5 a different rank.

6 Q. Doesn't the written examination cover that, that
7 you're taking a written examination to be a
8 lieutenant? Presumably wouldn't those questions test
9 your ability to be a lieutenant?

10 A. Not all of those abilities.

11 Q. Okay. Would you agree with me at least that if
12 someone is a sergeant, and they're applying for a
13 lieutenant, you're not going to look at their work as
14 a patrolman?

15 A. Correct. We would want current data.

16 Q. So when you're assessing service points for
17 someone and deciding what to award them, and you don't
18 think they will perform well in the position that
19 they're applying for, does that mean you would award
20 them less points?

21 A. Not necessarily so. I think what we're
22 looking for is, what is very important to me is what
23 the upper command staff views the overall performance
24 of that employee applying for that newer rank.

25 Q. Okay. In their current job?

1 A. In their current job, but having in mind the
2 job they're applying for.

3 Q. Which means how fit they are to be promoted to
4 that new position?

5 A. It's different on everyone's level as far as,
6 you know, if I'm quizzing five, seven, ten, twelve
7 members of my command staff. I don't know what is in
8 their minds.

9 Q. How did you learn about how service points are
10 awarded?

11 A. When I became part of the staff -- I mean,
12 previous to that, this contract has been in place for
13 a number of years. So I always knew the contract and
14 knew service points were administered. I think
15 they've been administered different ways by different
16 administrations.

17 Q. Why do you feel that way?

18 A. I don't know that. All I can say is I only
19 became involved under Colonel Esserman. Prior to
20 that, I was a Sergeant, and then there was some quick
21 movement in the department. I was never part of
22 service points prior to Colonel Esserman being the
23 Chief. So I came to learn under Colonel Esserman.

24 Q. I mean, it's pretty black and white to me. It
25 says it right there that they're your overall

1 performance. Why wouldn't it just be based on your
2 overall performance as a sergeant?

3 MR. MCHUGH: Objection as to form. You
4 can answer.

5 A. I think it is based on overall performance,
6 but not specifically just as sergeant. I think it's
7 basic overall performance is the way I read it.

8 Q. Okay. So you said the administrations have
9 issued service points in different ways?

10 A. I don't know that for a fact. They may have
11 administered them in different ways. The only
12 knowledge I have is under Colonel Esserman. I never
13 was part of conversations on service points with
14 previous administrations.

15 Q. Did you ever make any recommendations of service
16 points to those that were under you when they were
17 applying for promotional exams?

18 THE WITNESS: Prior to Colonel Esserman?

19 MR. GAGLIARDI: Prior to becoming a
20 Police Chief.

21 A. Yes.

22 Q. When was the last time you made a recommendation
23 of service points before you became Police Chief?

24 A. When I was a Captain.

25 Q. When you were a Captain; when was that?

1 A. I forget the year. I would have done it
2 every step of the way before that, Lieutenant, before
3 that. Yes, it would have been Lieutenant, Captain up.

4 Q. You've done it many times, right?

5 A. Again, only under his administration. So
6 from my time as District Commander on.

7 Q. How long was Esserman Police Chief?

8 A. I believe I was District Commander in the '03
9 area, 2003.

10 Q. What's that about eight years?

11 A. Yes.

12 Q. So eight years during, when Chief Esserman was
13 the Providence Police Chief, how many promotional
14 exams would you say there were during that time
15 period?

16 A. Several.

17 Q. Several. During each of those promotional exams
18 you had the opportunity to make recommendations for
19 chief points, right?

20 A. Yes.

21 Q. Do you recall a time where Chief Esserman ever
22 disagreed with you when you made a recommendation for
23 chief points?

24 A. In specific, no. But in general, yes. I
25 know he disagreed oftentimes with people who gave a

1 certain point amount to a certain candidate.

2 Q. When you say he disagreed, did he say, I'm not
3 giving, I'm not giving him or her those points; I'm
4 going to give him different points?

5 A. Something more to the effect of, I disagree
6 with that assessment. You need to take a hard look at
7 your unit and see that that's really deserving.

8 Q. So in that case did Chief Esserman think the
9 points were too high or too low?

10 A. Could have been either.

11 Q. When you became the Chief of Police and you met
12 with Chief Esserman at Paragon and you had several
13 meetings after that, did you and Chief Esserman
14 discuss how to award chief points?

15 A. No.

16 Q. Just for the record, I just referred to them as
17 chief points; service points and chief points are the
18 same?

19 A. Service points is the way it's written in the
20 contract, at the sole discretion of the Chief, so I
21 think it's --

22 Q. I just want to make sure.

23 A. Fair to say.

24 Q. I want to make sure there is no difference
25 between the two. It's just the terminology, right?

1 A. Service points.

2 Q. Okay. What range can you award for service
3 points; what is the range?

4 A. Zero through five.

5 Q. Okay. So what is the highest you can award for
6 chief points, service points?

7 A. Five.

8 Q. What is the lowest?

9 A. Zero.

10 Q. Is it possible for someone to be ineligible for
11 service points?

12 A. No.

13 Q. You have to give them a zero, a one, two, three,
14 four, or a five, right?

15 A. Yes.

16 Q. What does it mean when someone gets a five for
17 service points?

18 MR. MCHUGH: Objection as to form. You
19 can answer.

20 A. Again, it could be many different things to
21 many different people. That's been the conversation.
22 You may be a very strict judge of points in the
23 command staff, and I may be very lenient. What it
24 means to you may be different than what it means to
25 me.

1 Q. Okay. Not all teachers give As, right?

2 A. Right.

3 Q. So what does it mean to Hugh Clements, Jr., when
4 somebody gets a five for service points?

5 THE WITNESS: To me?

6 MR. GAGLIARDI: Yes.

7 A. It means outstanding, excellent.

8 Q. They're performing at the highest level possible,
9 right?

10 A. Yes.

11 Q. What about when someone gets a zero; what does
12 that mean to Hugh Clements, Jr.?

13 A. That means they're performing at a very low
14 level.

15 Q. The lowest level possible, right?

16 A. Yes.

17 Q. Would you agree with me that a five is the
18 equivalent of an A, and a zero is the equivalent of an
19 F if we were talking about we were in grade school?

20 MR. MCHUGH: Objection as to form. You
21 can answer.

22 A. You could, yes.

23 Q. Would you agree with me if one candidate scored
24 higher than another candidate in service points that
25 means that the candidate to who scored higher is

1 performing at a higher level than the candidate who
2 scored lower?

3 A. In the eyes of the administration, yes.

4 Q. I mean in your eyes.

5 A. Yes.

6 Q. All right. So let's talk about -- strike that.
7 You testified earlier that you rely heavily on your
8 command staff to give their opinions on police
9 officers' ability to do their job duties, right?

10 A. Yes.

11 Q. Because you're not out riding around with
12 sergeants on a daily basis, right?

13 A. Correct.

14 Q. Let's talk about these meetings that you have to
15 discuss service points. How long do these meetings
16 last?

17 A. Up to an hour.

18 Q. Is the sole purpose of the meeting to discuss
19 service points?

20 A. Yes.

21 Q. I would assume that the more people that are
22 applying for a promotional exam, probably the longer
23 the meeting is going to take, right?

24 A. Yes.

25 Q. So a meeting for a sergeants promotional exam is

1 probably going to take longer than a lieutenants
2 promotional exam?

3 A. Correct. It could potentially be broken up
4 into more than one meeting.

5 Q. Okay. Let's go back to the June 16, 2012
6 lieutenants promotional exam. Did you have a meeting
7 with your command staff to discuss the award of
8 service points for that promotional exam?

9 A. Yes.

10 Q. Do you remember when it was?

11 A. It was during that week. I'm not sure
12 exactly which day.

13 Q. During the week of the exam?

14 A. I believe so. The week or so before the
15 exam. It's typically done on the Thursday or Friday
16 prior to the week of the exam, or the Monday and
17 Tuesday.

18 Q. Is there anybody present at the meeting that
19 memorializes the discussion, takes minutes,
20 tape-records the conversations?

21 A. No.

22 Q. Is there any follow-up correspondence from the
23 meetings?

24 A. Yes.

25 Q. What is that?

1 A. Certainly if there are some supervisors who
2 want to lobby in a strong way for one of their
3 employees, because, again, they work with them on a
4 daily basis and they're closer to them with the
5 activities on the street, we're always open for
6 conversation for that from a sergeant, lieutenant or
7 captain.

8 As well, other documentation could be officers
9 have the list of all the candidates going for that
10 rank. They have the opportunity to fill out their
11 recommendation for that candidate and his points.

12 Q. Do you recall who was present at the meeting
13 where a discussion of service points took place for
14 the June 16, 2012 lieutenants promotional exam?

15 A. I believe I can name most of them. I'm not
16 positive I can name all of them. I do recall Deputy
17 Chief Oates, Majors Verdi, Tucker and Colon, Captains
18 Lepre, Stamatakos, Campbell, Lapatin. I believe
19 Lieutenants Perez and Ready were there. There may
20 have been other lieutenants there as well. Captain
21 Sauro was there as well.

22 Q. Is it typically just the person who directly
23 supervises the candidate, is it typically that person
24 that makes a recommendation of chief points, or do
25 other folks that are present at the meeting make

1 recommendations?

2 A. You're talking about a big department, but in
3 a sense a small department that over the years many of
4 the people at that table have been there 20, 25, 30
5 years. Everybody knows each other and have crossed
6 paths somewhere along the line. So it's everybody.

7 Q. Are candidates awarded chief points simply for
8 signing up for the exam, or do they have to sit for
9 the exam?

10 A. Just for signing up.

11 Q. Okay.

12 A. Because we won't know if they actually sit by
13 the time we give the points.

14 MR. GAGLIARDI: Sure. Okay.

15 (EXHIBIT B DEFENDANT'S MARKED FOR ID)

16 Q. You've just been handed Plaintiff's Exhibit B.
17 This was a document that was produced during discovery
18 by the City of Providence. It's entitled Lieutenants
19 Promotional Exam Sign Up, June 16, 2012. Have you
20 ever seen this document before today?

21 A. Yes.

22 Q. There is also a fax transmittal sheet?

23 A. Yes.

24 Q. Based on this document, do you have any reason to
25 believe that this document is not a true and accurate

1 reflection of -- strike that. Let's look at the last
2 two pages. Have you ever seen these two pages before?

3 A. Yes.

4 Q. What are those?

5 A. It's a fax cover sheet from the
6 administrative office, my office.

7 Q. Let's look at the fax information at the top.
8 It's hard to read, but it looks like it says June 14,
9 2012, which is a Thursday, 17:01 hours. The fax is
10 243-8448, I think. Do you recognize that fax number?

11 THE WITNESS: Where are you reading that?

12 MR. GAGLIARDI: At the top.

13 A. I'm not even sure if that is the actual fax
14 from the machine out in front of our office. The
15 executive assistant, Annie, faxes most of the stuff.
16 It's a fax machine. Yes, that should be it.

17 Q. It looks like it was faxed to that phone number.
18 Do you have any reason to believe that this document
19 was not faxed to the Fraternal Order of Police
20 Executive Board?

21 A. No.

22 Q. On June 14, 2012?

23 A. No.

24 Q. That comports with your time frame when -- strike
25 that. Do you know who created this document that's on

1 the front page of the exhibit, looks like an Excel
2 spreadsheet?

3 A. I filled in the points manually. That's my
4 handwriting. I believe Sergeant Grenada compiled the
5 list.

6 Q. It looks like some handwriting in the lower
7 right-hand corner?

8 A. Yes.

9 Q. Is that your handwriting?

10 A. No.

11 Q. Do you have, do you know when you wrote these
12 numbers in for service points in relation to the
13 meeting where you discussed what you were going to
14 give for service points?

15 A. Not exactly.

16 Q. Okay. So you testified that the people that were
17 present at the meeting of the command staff, because
18 it's a relatively small department, there's a good
19 chance that, that not just the direct supervisor would
20 have knowledge of the candidates' abilities, but other
21 people would, too, right?

22 A. Correct.

23 Q. So let's go over the list of people that were
24 there. So Hugh Clements, Jr., you had an opportunity
25 to work with Mark Mancini before, right?

1 A. Yes.

2 Q. Before he applied for this promotion?

3 A. Yes.

4 Q. In 1994, then 2008 and 2009?

5 A. Yes.

6 Q. You were able to formulate an opinion about his
7 work performance, right?

8 A. Correct.

9 Q. You testified earlier that at the very least it
10 met your expectations both times you supervised him,
11 right?

12 A. Correct.

13 Q. What about Commander Oates, had he had an
14 opportunity to work with Mark Mancini or supervise
15 him?

16 A. Along the way, yes.

17 Q. Was there anybody present at that meeting that
18 didn't know who Mark Mancini was?

19 A. No.

20 Q. Right. He had been there a long time; everybody
21 knew who he was, right?

22 A. Correct.

23 Q. Was there anyone present at that meeting that had
24 the opportunity to work with Mark Mancini directly?

25 A. Many of them.

1 Q. Were there any people present at that meeting
2 that didn't have the opportunity to supervise Mark
3 Mancini?

4 A. Can't be sure on that.

5 Q. Do you know who Mark Mancini's direct supervisor
6 was as of June 14, 2012?

7 A. On that date, I don't.

8 Q. I'm sorry if I already asked this. When did you
9 fill in the service points in relation to the meeting?

10 A. I manually fill this in the date that this
11 was faxed. So on the date on the back there, June 14,
12 would have been when I manually filled this in.

13 Q. So you have a meeting with the command staff to
14 discuss the service points, right?

15 A. Yes.

16 Q. A discussion ensues about what each candidate
17 should get, right?

18 A. Correct.

19 Q. Various people express their opinions and make
20 recommendations as to what each candidate should get
21 for a service point, right?

22 A. Correct.

23 Q. Sergeant Grenada puts together a spreadsheet of
24 all the people that signed up for the promotional
25 exam, right?

1 A. Correct.

2 Q. He gives it to you. You fill in the service
3 points, right?

4 A. Yes.

5 Q. Okay. Are you filling in the service points out
6 of memory, or do you keep notes at the meeting?

7 A. We keep notes at the meeting. I kept notes
8 at the meeting with my sheet, as well other people
9 have a sheet in front of them. The Deputy Chief would
10 keep notes where, you know, the meetings have been --
11 there's not a template for conducting these meetings.
12 They've been done different ways.

13 The Commander may start the meeting and talk
14 about, Okay, what did someone get previously? What
15 are we thinking of now, and what are we going to
16 administer for points eventually? Then we'll go down
17 the list.

18 Q. When you say what someone got previously, you
19 mean the last promotional exam they took?

20 A. Correct. So there could be several notations
21 on people's sheets, because they want to put in their
22 mind, Okay, what were they given last time, what are
23 supervisors going to speak about them now, and in the
24 end what I'm going to recommend towards service
25 points.

1 Q. When you say sheets, could you be more specific?

2 A. This sheet, blank.

3 Q. So everyone present at this meeting of the
4 command staff has a blank sheet?

5 A. To go along.

6 Q. I'm sorry, has a sheet that is identical to the
7 first page of Exhibit B, except service points are
8 blank, correct?

9 A. Correct.

10 Q. Before the meeting starts, Sergeant Grenada has
11 already compiled this list of people that signed up
12 for the promotional exam, and the service points are
13 left blank, right?

14 A. Yes.

15 Q. What happens to those sheets that are filled in
16 by each person present at the command staff meeting?

17 A. They can take them with them. We can discuss
18 candidates. If they choose, they can forward that
19 list to the command staff, or to the Deputy Chief, or
20 to me, and turn in their sheet. Some people do; some
21 people don't.

22 If they feel real strongly or negatively on a
23 candidate, they may. Other times they'll let that
24 conversation be the, speak for itself, and let the
25 Chief make a determination on the discretionary

1 points.

2 Q. When you say they submit their sheets, do they do
3 that at the meeting or after the meeting?

4 A. After the meeting. They're allowed to take
5 those sheets with them. They can make a determination
6 on their own, what they want to administer.

7 Q. How do they submit them to you typically?

8 A. Personally, they'll come right up to the --
9 the door is wide open. They'll come in, hand it to me
10 personally. Or they may walk to Commander Oates, give
11 it to him to give to me.

12 Q. What do you do with those sheets, of the sheets
13 that you do receive from people; what do you do with
14 those?

15 A. Typically keep them.

16 Q. Do you have the sheets -- strike that. Of the
17 people that were present at this meeting, did anybody
18 submit filled-in sheets for that promotional exam?

19 A. Yes.

20 Q. Do you know who filled, who submitted a filled-in
21 sheet for this promotional exam?

22 A. Commander Oates did. Major Verdi, Major
23 Tucker, Major Colon, Captain Lapatin, Captain
24 Campbell, Captain Lepre and others spoke verbally.
25 Those are the ones I recall.

1 Q. How do you remember that those specific people
2 submitted sheets?

3 A. Because I looked at them.

4 Q. When did you look at them?

5 A. Recently. Within the last couple of weeks.

6 MR. GAGLIARDI: Okay. Kevin, do you know
7 if those were produced during discovery?

8 MR. MCHUGH: They were not. If you want
9 to make a request to the Colonel, he has them. We'll
10 give them to you.

11 MR. GAGLIARDI: Well, I think we already
12 have made the request. I think this would be your
13 duty to supplement.

14 MR. MCHUGH: We'll give them to you in
15 any event.

16 Q. When did you look at them most recently?

17 A. Within the last week or two. I didn't look
18 at them today. I believe those are the ones who
19 formally turned in a sheet.

20 Q. Do you recall what Deputy Chief Oates recommended
21 that Sergeant Mancini get for chief points?

22 A. Yes.

23 Q. What?

24 A. Zero.

25 Q. What about Major Verdi?

1 A. One.

2 Q. What about Major Tucker?

3 A. Three.

4 Q. What about Major Colon?

5 A. Zero.

6 Q. What about Captain Lepre?

7 A. Zero.

8 Q. What about Captain Lapatin?

9 A. Two. Captain Campbell turned one in, too.

10 Q. What about Captain Campbell?

11 A. Two.

12 Q. Tell us about the discussion about what service
13 points should be awarded to Sergeant Mancini for the
14 June 16, 2012 promotional exam?

15 A. With every candidate the discussion would be
16 a name would be thrown out, and some of the candidates
17 the discussion would go right to, somebody would blurt
18 out -- there was no formal process. McHugh, he's a
19 five. He's a five. Yes, he's a five. In unison
20 people would say, He's a five.

21 The commander might say, Does anyone think he's
22 less than a five? Nobody. Okay, so we can agree we
23 believe he's a five? Yes. That would happen when
24 some of the candidates who were at that particular
25 time considered to be outstanding.

1 Then oftentimes we would start the meetings. If
2 somebody, somebody's name was brought up and there was
3 no response, we would say, Okay, we want the points to
4 be meaningful. Let's -- you know, there have been
5 tests where everybody gets a five. That became a
6 point of contention with the command staff, Why give
7 everyone a five? Why even have chief points if they
8 don't mean anything? They should mean something.

9 It was important to many in the command staff to
10 say, You know, let's let those points mean something.
11 If there was no response from the room, okay, every
12 candidate where there was no response, we'll start it
13 at three. Then we'll discuss it further. We'll start
14 it at three, up, down, or stay the same.

15 Q. Tell us about the discussion about Sergeant
16 Mancini; how did that go?

17 A. Go down the list alphabetically. I don't
18 recall verbatim. There wasn't much of an initial
19 response. So I think somebody said, There will be
20 further discussion on Sergeant Mancini, so we'll go to
21 the next person.

22 In the meantime, he's one that starts at a three.
23 We'll make a determination based on further discussion
24 and further influence from the command staff and the
25 people around the table what that number should be.

1 Q. The people that didn't submit these filled-out
2 forms that were present at that meeting, Stamatakos,
3 Ready and Perez?

4 A. Yes. And Sauro, Captain Sauro.

5 Q. And Sauro. Did she respond verbally and make a
6 verbal recommendation for points for Mancini?

7 A. Not that I recall as far as a number. I can
8 tell you, it does, it pains me to sit here in front of
9 him and say that none of the verbal conversation at
10 that meeting that I recall was glowing or positive.

11 Q. All right. Since we're all here, let's talk
12 about that. Let's talk about what everyone said about
13 Sergeant Mancini. Why did the folks that recommended
14 he get a zero, Colon and Lepre, why did they say he
15 should get a zero?

16 MR. MCHUGH: Objection as to form. You
17 can answer, if you know.

18 A. I don't really specifically know. I know
19 there was much conversation about negative attitude,
20 not a team player. I remember specifically George
21 Stamatakos saying that, just a poor attitude.

22 As the conversation goes on, and we want these
23 points to be meaningful, Is this what we want from a
24 lieutenant? The service points, we want to award for
25 someone who has applied to a position that is, in

1 essence, a much different position than where they're
2 coming from.

3 In essence, I've testified to it before, you
4 know, if you're a District Commander, you're a mini
5 Chief of Police. If you're an OIC, you're making
6 decisions on behalf of the agency as the Chief of
7 Police.

8 Q. Did anybody point out any discipline that
9 Sergeant Mancini had received?

10 A. That comes up with all the candidates. I
11 don't recall specifically. I am aware of some of it,
12 because I was involved, but it's, you know, it didn't
13 point to that reason for their low points.

14 Q. You said you're aware of it because of what you
15 were involved in; what do you mean?

16 A. What I mentioned earlier, when I was involved
17 in the union and I represented him on one of his
18 transgressions. I know from reading these documents
19 some of the, I know he had minor incidents with car
20 accidents, written up for car accidents, detail abuse.

21 Q. Wasn't that when he was a patrolman?

22 A. Yes.

23 Q. So you wouldn't consider that, right?

24 A. No, no.

25 Q. Did you?

1 A. I would consider it overall. I mean, if
2 somebody had a real bad record as a patrolman, we're
3 certainly looking for more up-to-date current
4 information.

5 I mean, people spend years here. You know, they
6 may have had something in their past in their jacket,
7 in their 201 file from 10, 12 years ago. That
8 certainly should be given less weight than where they
9 are now in their career.

10 Q. You ultimately decided, you made the final call
11 to give Sergeant Mancini a zero, right?

12 A. Yes, I did. I do that and I'll say that,
13 you know, and I mean this. Every decision I make in
14 the department I try to do for the best of the
15 organization, including when people are applying for
16 certain positions within the police department.

17 There may be a vacancy for a detective sergeant,
18 and 11 people put in for it. In the end, I'm the one
19 who puts them there. So I take the blame and credit
20 for putting that person there.

21 I hold an extremely high regard on what the
22 supervisors tell me. In fact, I don't sit on the
23 interview process. In the end, they forward a name to
24 me. Since I've been Chief, not one person who has
25 been assigned to one of those preferred units have

1 been picked specifically by me. They've been
2 recommended to me. I approve them. I approve them.
3 I approve them.

4 I'll certainly, if a name came before me that I
5 disapproved of, I would -- but I think it's important
6 for the commanding officers of these respective units
7 to be responsible for who is going to run their units
8 and who they have under their command. I hold that in
9 very high regard.

10 Q. I believe you testified that in awarding the
11 service points one of the things you looked at is what
12 someone did previously, what they were awarded on a
13 previous promotional exam for service points, right?

14 A. Yes.

15 Q. Did you look into what Mancini was awarded on a
16 previous promotional exam?

17 A. Yes.

18 Q. What was he awarded?

19 A. He was given five points on previous
20 administrations of promotional exams.

21 Q. On how many of them?

22 A. A couple. At least two. At least two.

23 Q. When was the most recent one prior to June 16,
24 2012?

25 A. I believe it was 2010.

1 Q. So two years earlier he's a five. He went from a
2 five to a zero?

3 A. Correct.

4 Q. What is your explanation for how he went from a
5 five to a zero in such a short period of time?

6 A. It's a completely new police administration.
7 There have been conversations for a long time about
8 points being meaningful. If you look at previous
9 examinations, you'll see the bulk of the list where
10 everybody gets a five.

11 It became a lengthy conversation with the command
12 staff. This is wrong. They're service points.
13 They're given at the sole discretion of the Chief.
14 They should be meaningful. They should be given to
15 people who you want to, or who you believe should be
16 put in those positions, based on their overall
17 performance deserve it.

18 If you look at this particular list of the
19 sixteen people who signed up, almost half did not get
20 five points. Seven, I believe, did not get five
21 points. On previous lists for a lieutenant you may
22 see one person who got less than five.

23 Q. Based on your previous testimony, though, you
24 would have to concede based on these service points
25 that your assessment is that Sergeant Mancini was the

1 worst-performing officer out of these 16?

2 A. Based on what I heard from my command staff,
3 his most recent supervisors who took part in these
4 conversations on service points were two captains who
5 gave him a two at the end of the day in the final
6 analysis. His two present supervisors at the time
7 this test was administered -- let me step back. He
8 was given two points apiece. He had an opportunity to
9 get ten points, and he got four, which is low.

10 From his new supervisors that were going to be in
11 charge of him, a major and a captain, he was given one
12 out of a total of ten potential points. A zero and a
13 one. That's, I mean, I've been in many meetings.
14 That's pretty glaring, and that meant a lot to me.

15 Q. Doesn't that suggest to you, though, there might
16 be some sort of, they may have had a personal problem
17 with Sergeant Mancini or some sort of animus against
18 him?

19 A. It would if it were one. It was present in
20 the conversation around the room. That's why I think
21 it's important that we have that conversation. If it
22 were one or two people -- it was me that administered
23 the points. I hold no animus towards Mark Mancini.
24 When I heard that around the room, it was glaring.

25 Q. Was there any discussion at this meeting about

1 Sergeant Mancini being on IOD status?

2 A. That didn't come into play.

3 Q. That's not the question. Was there any
4 discussion among the people?

5 A. Not that I recall. Not that I recall.

6 Q. Did anybody give Sergeant Mancini a low score,
7 recommend he have a low score because he was on IOD
8 status?

9 A. Not that I know of.

10 Q. Who said that Sergeant Mancini was not a team
11 player?

12 A. Captain Stamatakos and others had mentioned
13 that verbiage.

14 Q. Did you ask them for specifics?

15 A. It was part of the conversation. Again,
16 verbatim, I don't remember exactly what was said. But
17 by a team player, I mean, we're looking for, as a
18 lieutenant you're an integral part of the operation
19 and directives of the day-to-day operation of a police
20 department.

21 You certainly want people in that role who are
22 going to be positive and not be negative about the
23 command staff and the administration. Most
24 importantly, I think you want a team player. That was
25 important to me to hear that, not a team player, from

1 other people around the room.

2 Q. I'm not suggesting it's not an important quality.

3 I want to know whether or not someone gave you
4 specific details of why they thought he wasn't a team
5 player, or if it was a general statement not supported
6 by any evidence.

7 A. Some discussion that he comes into work, does
8 the job and he leaves. Certainly for, in the
9 decentralized police department we're in now, we're
10 looking for more than that. We're looking for people
11 that become way more engaged with the work staff, with
12 the community, and to present a positive direction for
13 the people you're going to lead.

14 Q. Did you review Sergeant Mancini's performance
15 evaluations before you decided to give him a zero?

16 A. I did.

17 Q. What did you find in those performance
18 evaluations?

19 A. Mixed. Again, you have different raters or
20 evaluators. Some may be, have a tendency to be more
21 lenient than others. I've seen that over my career.
22 There are certain bosses on this job, they're just
23 strict, strict raters. They're real about it. They
24 say, How can you give that person an excellent or
25 above average?

1 So to answer the question, they were mixed. Some
2 were good. A lot were, Meets standards, especially in
3 the area of attitude and cooperation. I remember
4 reading one, everything was, Meets standards. That's
5 certainly not what we're looking for.

6 Q. Did you review the performance evaluations of the
7 other 15 candidates that applied for this promotion?

8 A. I relied predominantly on the conversations
9 between the command staff, so no.

10 Q. So of the 16 people that applied for this
11 promotional exam on June 16, 2012, Sergeant Mancini
12 was the only candidate you reviewed performance
13 evaluations for?

14 A. I consider based upon the voices of the
15 command staff. I did not review his prior to him
16 taking the test. I did look at it in preparation for
17 this.

18 Q. In preparation for this deposition?

19 A. Yes.

20 Q. So let's make sure we really nail this down.
21 When you decided to give Sergeant Mancini a zero, had
22 you reviewed his performance evaluation prior to
23 making the decision to give him a zero?

24 A. I considered his performance evaluation based
25 on the command staff around me and was told that it

1 was average.

2 Q. That doesn't answer my question. It's a very
3 specific question. Did you review his performance
4 evaluations --

5 A. No, no.

6 Q. -- before you made the decision to give him a
7 zero?

8 A. No.

9 Q. Did you review anyone's performance evaluations
10 before you issued them service points?

11 A. Review, no. Considered, yes.

12 Q. How did you consider the performance evaluations?

13 A. Based on conversations with members of the
14 command staff.

15 Q. I'm talking about specific written performance
16 evaluations, right. How many police officers are
17 under you?

18 A. 450.

19 Q. You would concede you can't remember each
20 person's performance evaluations, right?

21 A. Correct.

22 Q. My question is, once the recommendations were
23 given that he should get these low scores, did you
24 then go to his personnel file and review his
25 performance evaluations?

1 A. No.

2 Q. Why not?

3 A. I didn't.

4 Q. Would you be surprised that his most recent
5 performance evaluations were above average?

6 A. I can tell you that I reviewed many of the
7 evaluations previously. I know from certain
8 lieutenants who rated certain people that they would
9 give, they would be more lenient.

10 I know when he, I believe I reviewed his
11 evaluations on a yearly basis as we went along. I
12 know I signed one of them. I know I reviewed it,
13 because I signed it. And I know I reviewed many of
14 them that I didn't sign. I would sit there
15 painstakingly and review evaluations, but did I review
16 it before the exam, no.

17 Q. Sounds like what you're saying is all of Sergeant
18 Mancini's good performance evaluations really aren't
19 good; it's just the people that are evaluating him are
20 easy graders and give good performance evaluations?

21 MR. MCHUGH: Objection as to form.

22 A. I'm not saying that. There are certainly
23 discrepancies in certain evaluation forms. I would
24 attribute that to the raters. Some are more lenient;
25 some are more strict.

1 Q. Based on your discussions with the people at this
2 meeting, you came to the conclusion that Sergeant
3 Mancini was performing the worst of all 16 candidates,
4 right?

5 A. Yes.

6 Q. Did you issue him any discipline because it was
7 reported to you that he had a negative attitude, not a
8 team player, and a poor attitude?

9 A. No.

10 Q. Why not?

11 A. I don't think we ever administered discipline
12 to anyone with negative attitude or, or attitude.

13 Q. What did you say earlier, that a zero constituted
14 what? You said a five was excellent, outstanding,
15 right?

16 A. Yes.

17 Q. What was zero?

18 A. I believe I said a poor performer.

19 MR. GAGLIARDI: Can we have that read
20 back, please?

21 (OFF THE RECORD)

22 MR. GAGLIARDI: Let's go back on the
23 record. So before we took our break, I asked the
24 court reporter to find in the transcript your
25 testimony.

1 (PORTION READ BACK)

2 Q. So you would agree with me that of the 16 people
3 that sat for the June 16, 2012 lieutenants promotional
4 exam that Sergeant Mancini was performing at the
5 lowest level possible as compared to those other
6 candidates, correct?

7 MR. MCHUGH: Objection as to form. You
8 can answer.

9 A. Yes. I would add, based on the
10 recommendations from the staff.

11 Q. You gave Sergeant Mancini an F, right?

12 MR. MCHUGH: Objection.

13 A. I gave him a zero.

14 Q. Sergeant Mancini didn't get promoted?

15 A. No.

16 Q. Okay. Yet he was still supervising police
17 officers, right?

18 A. Yes.

19 Q. How many police officers did he have under him?

20 A. Depending on the day. Again, going back
21 towards the initial portion, it could be 5, 10 or 15
22 depending on how many districts he was covering.

23 Q. You chose not to discipline him, even after you
24 learned that he was performing at the lowest level
25 possible, right?

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1 A. Yes.

2 Q. You allowed a sergeant with a bad attitude and
3 who was not a team player to go on to supervise 5 to
4 15 employees, right?

5 A. Yes.

6 MR. GAGLIARDI: All right. So by
7 agreement of the parties, we're going to suspend the
8 deposition, because we have people that have to go
9 places. We're going to reconvene at a later time.

10 I'm also going to ask, Chief Clements, that you
11 locate those documents that we were talking about
12 earlier, which are the notes from the command staff
13 meeting in which the chief points were awarded. Those
14 would be the notes that several Commanders submitted.
15 Do you have those notes?

16 THE WITNESS: I do. I'll turn those over
17 ASAP.

18 MR. GAGLIARDI: Can we get those
19 tomorrow?

20 THE WITNESS: Yes.

21 MR. GAGLIARDI: Great. That's it.

22 MR. MCHUGH: Transcript, please.

23 (DEPOSITION SUSPENDED AT 3:25 P.M.)

24

25

C-E-R-T-I-F-I-C-A-T-E

I, ELIZABETH GREELEY, a Notary Public, in and for the State of Rhode Island, duly commissioned and qualified to administer oaths, do hereby certify that the foregoing Deposition of Chief Hugh T. Clements, Jr.,, a Defendant in the above-entitled cause, was taken before me on behalf of the Plaintiff, at the offices of Mark Gagliardi, 120 Wayland Avenue, Providence, Rhode Island on June 10, 2015 at 12:00 P.M.; that previous to examination of said witness, who was of lawful age, he was first sworn by me and duly cautioned to testify to the truth, the whole truth, and nothing but the truth, and that he thereupon testified in the foregoing manner as set out in the aforesaid transcript.

I further certify that the foregoing Deposition was taken down by me in machine shorthand and was later transcribed by computer, and that the foregoing Deposition is a true and accurate record of the testimony of said witness.

Pursuant to Rules 5(d) and 30(f) of the Federal Rules of Civil Procedure, original transcripts shall not be filed in Court; therefore, the original is delivered to and retained by Plaintiff's Attorney, Mark Gagliardi.

Reading and singing of the Deposition was waived by the Witness.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of June, 2015.

Elizabeth Greeley
Notary Public


ELIZABETH GREELEY, NOTARY PUBLIC
CERTIFIED COURT REPORTER
MY COMMISSION EXPIRES: 04/07/2018

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In The Matter Of:

*Mancini vs
City of Providence*

Chief Hugh T. Clements, Jr.

Vol. II

June 17, 2015



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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

Mark Mancini :
 :
VS. : C.A. NO: 13-092-S-PAS
 : VOLUME II
City of Providence, :
By and Through its :
Treasurer, James J. :
Lombardi, III, and :
Hugh Clements, Jr. :

DEPOSITION OF CHIEF HUGH T. CLEMENTS, JR., a
Defendant in the above-entitled cause, taken on
behalf of the Plaintiff, before Elizabeth Greeley,
Notary Public, in and for the State of Rhode Island,
at the Law Office of Mark Gagliardi, 120 Wayland
Avenue, Providence, Rhode Island, on June 17, 2015 at
10:00 a.m.

PRESENT:

FOR THE PLAINTIFF.....LAW OFFICE OF MARK GAGLIARDI
BY: MARK GAGLIARDI, ESQUIRE
-AND-
GEOFF APTT, ESQUIRE

FOR THE DEFENDANT.....CITY OF PROVIDENCE
DEPARTMENT OF LAW
BY: KEVIN MCHUGH, ESQUIRE
-AND-
KATHRYN SABATINI, ESQUIRE

ALSO PRESENT:
MARK MANCINI
JENNEWA HUGHES

I N D E X

WITNESS	PAGE
CHIEF HUGH T. CLEMENTS, JR.	
EXAMINATION BY MR. GAGLIARDI.....	3

E X H I B I T S

EXHIBIT	DESCRIPTION	PAGE
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E	MEMO #16 (3 PGS).....	98

1 (DEPOSITION COMMENCED AT 10:20 A.M.)

2 CHIEF HUGH T. CLEMENTS, JR.

3 Being duly sworn, deposes and testifies as
4 follows:

5 THE REPORTER: Would you state your name
6 for the record, please?

7 THE WITNESS: Hugh T. Clements, Jr.

8 EXAMINATION BY MR. GAGLIARDI

9 Q. Good morning, Chief Clements.

10 A. Good morning, Counsel.

11 MR. GAGLIARDI: We're here to continue
12 the deposition that started last week on June 10.
13 Just for the record, I would like everyone in the room
14 to introduce themselves, and I'll start with myself.
15 My name is Mark Gagliardi, and I represent the
16 Plaintiff.

17 MR. APTT: Geoff Aptt, associate here
18 with Mark's office.

19 MR. MANCINI: Mark Mancini.

20 MS. SABATINI: Kate Sabatini, Assistant
21 City Solicitor.

22 MR. MCHUGH: Senior Assistant City
23 Solicitor, Kevin McHugh, representing Hugh Clements.

24 MS. HUGHES: Jennewa Hughes, legal
25 intern.

1 Q. Okay. I will try my best not to ask any
2 questions that I previously asked, but it's inevitable
3 it might happen. So the first topic I would like to
4 discuss is light-duty status. What was the policy in
5 effect in May of 2011, which I'm going to represent to
6 you is the time that Sergeant Mancini returned to work
7 from his injury?

8 A. I believe you could only work in light-duty
9 status for a year.

10 Q. Okay.

11 A. Prior to being put on some other sort of
12 status from Human Resources.

13 Q. Why did you believe that?

14 A. Well, the policy and the CBA.

15 Q. Okay. But what was, what was, what constitutes
16 light-duty status, or what did at the time, to your
17 knowledge?

18 A. Somebody who, through medical documentation,
19 could not perform the duties of a police officer to
20 100 percent but to a lesser percentage, but still was
21 employable within the agency but in a lesser function
22 than on the street.

23 Q. Okay. For the position of sergeant, what would
24 light-duty status entail?

25 A. It could be the same as patrolman or a higher

1 rank. It could be an office function of answering the
2 phones, or working in a property room, or doing some
3 administrative-type work.

4 Q. So a sergeant who is on light-duty status can't
5 go on patrol and chase suspects, correct?

6 A. Correct.

7 Q. For obvious reasons?

8 A. Correct.

9 Q. Okay. Has that policy changed since you've
10 become Police Chief, to your knowledge?

11 A. No.

12 Q. I believe you testified last time and we
13 discussed at some point the person who is on
14 injured-on-duty status would be required to file for
15 accidental disability benefits; is that correct?

16 A. Yes.

17 Q. Where is that policy written?

18 A. I believe it's in the contract.

19 Q. The CBA?

20 A. Yes.

21 Q. At what point would they be required, how long
22 would they have to be on injured-on-duty status before
23 they were required to file for accidental disability
24 benefits?

25 A. That is a function that is solely done

1 through Human Resources along with the Retirement
2 Board. I'm not clear and certain on all the
3 particulars to that, but I believe it's one-year light
4 duty, and then they wait for medical documentation to
5 see if that employee is able to come back to work in a
6 full-time capacity or full-function capacity.

7 MR. GAGLIARDI: Okay.

8 (EXHIBIT C PLAINTIFF'S MARKED FOR ID)

9 Q. Chief Clements, I just handed you what's been
10 marked as Plaintiff's Exhibit C, which I'm going to
11 represent to you are excerpted pages of the CBA
12 between the Providence Police Department and the
13 union, or the City of Providence and the union. These
14 are Pages 60 and 61. I want you to just take a minute
15 and review this document.

16 A. Okay.

17 Q. Does this refresh your recollection of the
18 light-duty status policy of the Providence Police
19 Department in or about May 2011?

20 A. Yes.

21 Q. You indicated that a member could not be assigned
22 light duty for more than 12 months, correct?

23 A. Correct.

24 Q. Does it say anywhere in here that if the member
25 exceeds light-duty status for more than 12 months they

1 would be forced to file for accidental disability
2 benefits?

3 A. No.

4 Q. Okay. So according to this policy, if Sergeant
5 Mancini came back to work on light-duty status in May
6 of 2011, the collective bargaining agreement would
7 enable him to maintain light-duty status for one year,
8 up to May 2012?

9 MR. MCHUGH: Objection as to form. You
10 can answer.

11 THE WITNESS: Could I have the question
12 again, please?

13 MR. GAGLIARDI: Read that back, please.

14 (QUESTION READ BACK)

15 A. Yes, according to this CBA.

16 Q. Okay. So I'm going to represent to you that
17 Sergeant Mancini claims that in August of 2011, only
18 three months later, that his employer terminated his
19 light-duty status and required him to file accidental
20 disability benefits. Do you have any, can you
21 explain, do you have any knowledge of that?

22 A. Only through this paperwork. Again, that is
23 a function performed by Sergeant Grenada in the Human
24 Resource Office. So I can't really speak to the
25 particulars on that.

1 Q. Okay. Did you direct anyone in the Human
2 Resources Department or anybody below you to terminate
3 Sergeant Mancini's light-duty status?

4 A. No.

5 Q. Do you recall what Sergeant Mancini was doing for
6 his light-duty status, what job he was doing?

7 A. I don't.

8 Q. We talked a little bit last time about the chain
9 of command at the Providence Police Department. I'm
10 more interested this time in discussing how that, how
11 Sergeant Mancini fit into that chain of command.
12 Let's talk about that.

13 So Sergeant Mancini, this is, of course, during
14 the time period June 2012, at about the time he was
15 being awarded the service points, okay?

16 A. Okay.

17 Q. So Sergeant Mancini was a sergeant at the time.
18 He had patrolmen under him; is that correct?

19 A. Yes.

20 Q. In what district was Sergeant Mancini assigned
21 to?

22 A. 4, District 4.

23 Q. Which is where?

24 A. Which is the West End. Elmwood Avenue going
25 up to the west all the way over to Broadway, Federal

1 Hill and the Eagle Square area and to the total west
2 side abutting Olneyville.

3 Q. How many patrolmen was he supervising at the
4 time?

5 A. On his particular shift there are four car
6 posts in District 4. There may be as little as three
7 assigned to duty on his shift, or as many as four,
8 five or six, but traditionally around four or three.
9 But then he may be required to supervise abutting
10 districts, Districts 5 and 3.

11 Q. When you say car posts, what does that mean?

12 A. Geographical areas where patrol officers in
13 uniform are assigned to patrol. So it's a block, it's
14 a geographical post.

15 Q. How many police officers are assigned to each car
16 post?

17 A. One.

18 Q. What shift was he assigned to? I understand
19 there are three shifts, correct?

20 A. Yes, technically four. It's a mid shift as
21 well. He was the day shift, 7 A to 3 P.

22 Q. My understanding from your testimony last week
23 was that above the sergeants were lieutenants,
24 correct?

25 A. Correct.

1 Q. Who was the lieutenant assigned to District 4 in
2 June of 2012?

3 A. I believe it was D'Andrade.

4 Q. That would have been Sergeant Mancini's direct
5 supervisor, correct?

6 A. Yes.

7 Q. How many districts was Lieutenant D'Andrade
8 responsible for, other than District 4?

9 A. None. Just one, except if she's given an OIC
10 assignment, Officer in Charge, there will be assigned,
11 a district lieutenant may be the highest ranking
12 officer on a night shift. They would be responsible
13 for the whole City.

14 Q. How many sergeants, how many sergeants were
15 assigned to the District 4 shift, other than Sergeant
16 Mancini?

17 A. Exactly, I don't know, but not more than
18 three. It would have been one for each shift. There
19 were some districts that did not have a sergeant
20 assigned on each shift. I believe District 4 had
21 three assigned.

22 Q. So Lieutenant D'Andrade was responsible for
23 supervising Sergeant Mancini and two other sergeants?

24 A. Yes.

25 Q. Then who was Lieutenant D'Andrade's immediate

1 supervisor? My understanding, it would be a major; is
2 that correct?

3 A. Captains.

4 Q. Oh, sorry, captains, then eventually the major?

5 A. Yes.

6 Q. So who was Lieutenant D'Andrade's captain at the
7 time, June 2012?

8 A. It had changed. In June 2012, Captains would
9 have been Lepre and Stamatakos, and the Major would
10 have been Verdi.

11 Q. Then above Major Verdi would have been the Deputy
12 Chief and yourself, correct?

13 A. Yes.

14 Q. Tell me about the interplay between the
15 lieutenant and the sergeant; how does that
16 supervisor-subordinate relationship work?

17 A. Lieutenant is responsible for the entire
18 operations in that community; in essence, the mini
19 police chief for that geographical area. So the
20 dynamics between the lieutenant and the sergeant are
21 the lieutenant would take direction from above and
22 take information from the outside, the community, the
23 council, the community groups.

24 Then the lieutenant would direct the operations
25 of that geographical area on the respective shifts.

1 So for the day shift if there were issues or
2 complaints about certain activity at certain car posts
3 or neighborhoods, the lieutenant would constantly
4 advise the sergeant what to pay attention to.

5 Q. Where are all these folks working? My
6 understanding is that the sergeants and the patrolmen
7 are in police vehicles out trying to prevent crime.
8 Where is the lieutenant when all of this is going on,
9 Lieutenant D'Andrade?

10 A. More than likely she is in Central Station at
11 her substation, which is on Cranston Street, or she's
12 in meetings, or just on routine patrol herself.

13 Q. Okay. When she's on a routine patrol, is she
14 performing the same function as the sergeants and
15 patrolmen?

16 A. No. She's probably following up on
17 complaints she's had from outside or above.

18 Q. Complaints, civilian complaints?

19 A. Yes, neighborhood complaints and checking
20 locations.

21 Q. What reasons does a lieutenant have for going out
22 into the -- strike that. What reasons typically does
23 a lieutenant have for leaving their office and going
24 out into the field and dealing with sergeants and
25 patrolmen?

1 A. Just about anything. They have almost
2 complete free latitude.

3 Q. Well, give me some examples.

4 A. Again, they could be out there checking on
5 complaints in the neighborhood.

6 Q. Okay. What else?

7 A. They could be going to a meeting with a
8 council person. They could be going to a meeting with
9 a representative from a community group.

10 Q. What about arrests?

11 A. Rare for a lieutenant to make an arrest, but
12 they could. Some do.

13 Q. If there is a shooting, is that something that
14 the lieutenant would go out and be a part of?

15 A. Certainly any major incidents in that
16 geographical area, or anywhere in the City they would
17 respond to, oversee the operation.

18 Q. What was Lieutenant D'Andrade's official title in
19 June of 2012?

20 A. I believe it was Lieutenant/District
21 Commander.

22 Q. How often does a Lieutenant/District Commander
23 meet with the sergeants in person?

24 A. It depends who the lieutenant is or district
25 commander. They all work in varying styles.

1 Q. I mean, I can only go by what I see on TV. Do
2 they have a meeting and say, Let's do it to them
3 before they do it to us?

4 A. Some do, some do. They have routine
5 meetings. Others like to lead with the approach that
6 they pop in unexpectedly to roll calls, or to the
7 substation, or on dispatch calls themselves. They're
8 pretty busy. Depending on their, how full their plate
9 is, it may differ as to their style. They're all
10 different.

11 Q. Certainly they're available to communicate via
12 telephone or -- what do you call it, a walkie-talkie?

13 A. Yes, the police radio.

14 Q. Police radio?

15 A. Yes, yes.

16 Q. What about the captain, the captains? There's
17 two captains, there were two captains that Lieutenant
18 D'Andrade reported to; that was Lepre and Stamatakos?

19 A. Yes.

20 Q. How many captains were there at the time?

21 A. Six. We're authorized for eight. I believe
22 at that time -- it's fluctuated. We've gone as low as
23 five. At that particular time, I'm not sure. It may
24 have been five or six. I want to say six.

25 Q. Lapatin and Sauro were both Captains in 2012,

1 correct?

2 A. Yes.

3 Q. Who else, and this is June of 2012, Lepre,
4 Stamatakos, Campbell, that's five?

5 A. Yes. We may have gone as low as five.

6 Q. Why was Lieutenant D'Andrade reporting to two
7 captains?

8 A. Well, the captains are assigned to the
9 Uniform Division Patrol Bureau. One is predominantly
10 responsible for days, the other predominantly nights.
11 However, oftentimes they both work days. One of them,
12 depending on the major's style of commanding his
13 division, one of them was mainly responsible for the
14 operational side of the entire division. The other
15 one was more responsible for the community relations
16 end of the patrol function.

17 Q. To your knowledge, in June of 2012 how did Lepre
18 and Stamatakos divide up their duties?

19 A. Stamatakos was more the community relations
20 Captain. Captain Lepre was more the operational,
21 boots-on-the-ground Captain. Again, they would
22 fluctuate. They wouldn't keep the same schedule.
23 They would, sometimes Lepre would work nights;
24 sometimes Stamatakos would work nights.

25 Q. Okay. How often in your experience does a

1 captain deal with sergeants?

2 A. Often.

3 Q. Tell me how that works.

4 A. We're a busy, high-volume City, especially in
5 District 4, District 5. Districts 2, 4, 5 and 7,
6 these are immensely busy areas. There's a high volume
7 of calls or complaints, whether it be from the
8 dispatch, councillors from the community.

9 So the captains, upon receiving complaints or
10 information on respective issues in the City, if that
11 lieutenant was not working, they would definitely go
12 right to the sergeants or even the patrol people and
13 direct them.

14 Q. This is just for civilian complaints?

15 A. Everything. Could be either a long-standing
16 complaint, or we deal with a lot of long-term issues,
17 like constant gangs on the corner, drug dealing at
18 certain houses. Just constant nuisance complaints in
19 certain sections of the City that are complained about
20 oftentimes at the community meetings.

21 A caller may call, They're back out there again
22 in front of 142 Hanover Street. Can you help us? We
23 complain about this all the time. That's
24 long-standing or a long-term complaint, or it could be
25 something that just happened. Kids out there; they're

1 firing a gun into a house, or BB gun. They're going
2 to hurt someone. Can you get someone out here?

3 Q. In terms of the day-to-day operations, is it fair
4 to say that the lieutenant would be more involved with
5 the sergeant than the captains?

6 A. Yes.

7 Q. How many districts were there in June of 2012?

8 A. Nine.

9 Q. Which districts were Lepre and Stamatakos
10 responsible for?

11 A. All of them.

12 Q. What about Lapatin, Sauro and Campbell?

13 A. Again, this was a time of flux in the agency.
14 Lapatin and Campbell had been moved out of the
15 division. I believe Sauro was in narcotics by then.

16 Q. Do you know how long Lieutenant D'Andrade was
17 supervising Mark Mancini?

18 A. I don't.

19 Q. More than five years, less than five years?

20 A. Less than five years.

21 Q. Okay. Do you know who was supervising Sergeant
22 Mancini before Lieutenant D'Andrade?

23 A. Lieutenant San Lucas.

24 Q. San Lucas?

25 A. Yes.

1 Q. Is that a man or woman?

2 A. Man.

3 Q. Do you know his first name?

4 A. Luis, Luis San Lucas.

5 Q. Sorry?

6 A. Luis.

7 Q. Do you know how it came about that Luis San Lucas
8 no longer became Mark Mancini's direct supervisor?

9 A. He got transferred and moved to the
10 commandant to run the police academy and training.

11 Q. How often would a major, in your experience, how
12 often does a major have contact with a sergeant?

13 A. Often.

14 Q. How does that happen?

15 A. Especially in patrol. The major's office is
16 right on the corner. When you walk in the office
17 going into the main lieutenant's office, you would
18 have to walk in the door of the Patrol Bureau and go
19 directly by the major's office to go into the
20 lieutenants, sergeants area, or the desk sergeant's
21 area. So everyone who walks in the Patrol Bureau has
22 to walk by the major every single time.

23 Q. All right. That was a bad question. What I
24 really meant was, how often does a major have the
25 opportunity to observe a sergeant perform his or her

1 job duties?

2 A. Often. I mean, sergeants are routinely in
3 the station supervising their patrol officers on
4 reports or a situation on the street. So routinely
5 majors, unfortunately, spend a lot of time in the
6 office. They're in the office a lot when a lot of
7 members of the Patrol Bureau are in there as well
8 dealing with a situation.

9 Certainly any incident on the street of note, a
10 major incident, the rank of major in the Patrol Bureau
11 would be on the scene. He would be there to direct
12 and observe the activities of everyone, including
13 members who are not under his command who may be in
14 narcotics or detectives.

15 Q. At the time the Majors, my understanding, were
16 Verdi, Tucker and Colon; is that correct?

17 A. Yes, yes.

18 Q. How often does the, would the Deputy Chief
19 interact with a sergeant?

20 A. Same thing, often. He's out there. This
21 Deputy Chief, Tommy Oates, he's out there quite a bit
22 following the radio and following in on calls. He's
23 pretty active. Goes to roll calls.

24 Q. At the meeting that you had before the June 16,
25 2012 promotional exam, the meeting in which chief

1 points were recommended to you by the command staff
2 and supervisors, was Lieutenant D'Andrade present at
3 that meeting?

4 A. I believe so, but I'm not positive.

5 Q. Okay. Before you became Police Chief, when you
6 were in a supervisory capacity as a Major, had you had
7 the opportunity to make a recommendation of chief
8 points to a candidate for promotion?

9 A. Yes.

10 Q. Did you attend a meeting similar to the one that
11 you described that happened prior to the June 16, 2012
12 lieutenants promotional exam?

13 A. Yes.

14 MR. MCHUGH: Could you read that question
15 back, please?

16 (QUESTION READ BACK)

17 MR. MCHUGH: Thank you.

18 Q. Was that meeting conducted by Chief Esserman?

19 A. Yes.

20 Q. How did that meeting differ from the one that you
21 presided over in June 2012, if at all?

22 MR. MCHUGH: Objection as to form. You
23 can answer.

24 A. It was very similar.

25 Q. Okay. Did Chief Esserman hand out score sheets

1 like you did?

2 A. Yes.

3 Q. Were the score sheets blank with respect to
4 service points?

5 A. Yes.

6 Q. Is that how you, is that why you followed the
7 procedure you followed in June 2012?

8 A. Correct.

9 Q. So you learned it from Chief Esserman, right?

10 A. Yes.

11 Q. Did Chief Esserman have everybody give a
12 recommendation on points, even those people that did
13 not directly supervise the candidate?

14 A. Yes.

15 Q. I'm going to represent to you that Sergeant
16 Mancini claims that it's against the policy or the CBA
17 for someone, other than the direct supervisor, to
18 recommend chief points or service points; do you
19 disagree with that?

20 A. It's not contained in the CBA. At the time I
21 don't believe we had a policy relative to how the
22 points were given.

23 Q. Last week I asked you a question, and you
24 responded to it. I'm just going to read the question
25 and the answer from the transcript. It's from

1 Page 42, Line 22 to Page 45, Line 1 -- Page 44,
2 Line 22 to Page 45, Line 1. I'm just going to
3 represent to you this is the question and answer. If
4 you want us to show the transcript, if you have any
5 reason to doubt that's accurate, I'd be happy to.

6 The question was, How do you evaluate the work
7 performance of a police officer if you're not there
8 observing them to do them do their job? Remember I
9 asked that question?

10 A. Yes.

11 Q. Your answer was, I rely heavily on the critique
12 assessment review of the people they work directly
13 for?

14 A. Yes.

15 Q. Okay. So in June of 2012 Sergeant Mancini worked
16 directly for Lieutenant D'Andrade, correct?

17 A. Yes.

18 Q. Okay. So does that mean that in awarding him
19 chief points in June of 2012 that you relied heavily
20 on Lieutenant D'Andrade's recommendation?

21 MR. MCHUGH: Objection as to form. You
22 can answer.

23 A. Along with, and more importantly, the
24 captains and major responsible for the entire
25 division.

1 MR. GAGLIARDI: That doesn't answer the
2 question. Could you read it back? It's a yes-or-no
3 answer.

4 (QUESTION READ BACK)

5 MR. MCHUGH: Objection as to form. You
6 can answer.

7 A. No.

8 Q. Okay. Why?

9 A. I'm not trying to be smart. It's, I rely
10 heavily on the command staff running the entire
11 division, the captains, the major, and everyone else
12 who has input with observing and overseeing all of the
13 sergeants, all of the lieutenants.

14 Q. That's not what you said last week. You said you
15 rely heavily on the people they work directly for.

16 MR. MCHUGH: Objection as to form. There
17 is no question pending.

18 Q. Okay. So you didn't rely heavily on Lieutenant
19 D'Andrade's recommendation, even though Mark Mancini
20 worked directly for her and she had the most knowledge
21 and experience regarding his work performance, right?

22 MR. MCHUGH: Objection as to form. You
23 can answer.

24 A. Everyone in patrol works directly for a lot
25 of sergeants, a lot of lieutenants, some captains, and

1 most importantly, a major.

2 Q. Would you agree with me that a lieutenant has the
3 most interaction and ability to observe a sergeant in
4 the performance of their duties?

5 MR. MCHUGH: Objection.

6 Q. As opposed to the majors and captains above them?

7 MR. MCHUGH: Objection to form. You can
8 answer.

9 A. Yes.

10 Q. Okay. A lieutenant is in a better position to
11 evaluate the performance of a sergeant as opposed to a
12 captain or major, right?

13 MR. MCHUGH: Objection as to form. You
14 can answer.

15 A. Not necessarily.

16 Q. Why not?

17 A. Because of all the things I testified to.
18 It's a busy, high-volume place. The captains are very
19 engaged. The major is very engaged. The high-ranking
20 officials in the respected bureau, whether it be
21 patrol, detectives, narcotics, they're very engaged.
22 They are working sergeants. They are working majors.
23 They're engaged.

24 Q. Lieutenant D'Andrade was Sergeant Mancini's
25 direct supervisor, right?

1 A. Yes.

2 Q. What does that mean, direct supervisor?

3 A. She was in charge of the district that he was
4 assigned to.

5 Q. He was reporting directly to her, right?

6 A. Yes.

7 Q. She had the most interaction with Sergeant
8 Mancini; she was the supervisor with the most
9 interaction with Sergeant Mancini, wasn't she?

10 A. Yes.

11 Q. Do you remember what Lieutenant D'Andrade
12 recommended for service points for Sergeant Mancini in
13 June 2012?

14 MR. MCHUGH: Objection as to form. You
15 can answer.

16 A. I don't.

17 Q. Did you have her fill out one of those score
18 sheets?

19 A. She had one if she came to the meeting, and
20 she did not turn one in.

21 Q. Was she invited to the meeting?

22 A. Yes.

23 Q. What happens when a direct supervisor cannot
24 attend a meeting; do you postpone the meeting?

25 A. Not for one particular lieutenant who could

1 not make it. If several could not make it, probably.
2 Normally, no, we'd continue to have it.

3 Q. Okay. Let's talk a little bit more about how
4 service points are awarded. We talked last time that
5 it's set forth in the collective bargaining agreement;
6 that it's based on their overall performance, right?

7 A. Yes.

8 Q. The CBA sets forth some examples; it includes
9 letters of commendation and sick days. What is your
10 interpretation of how sick days come into play when
11 awarding service points?

12 A. The command staff members of the respective
13 bureaus would certainly highlight and indicate to me
14 if somebody had a sick abuse problem.

15 Q. You mean they took out too many sick days?

16 A. Yes.

17 Q. That would be indicative of somebody who is what;
18 what does that mean if they have too many sick days?

19 A. That they may have abused their total
20 allotment of sick days, or they may have had a serious
21 off-duty illness. It could mean one or the other.

22 Q. How do you differentiate between the two?

23 A. If they have medical documentation that their
24 absenteeism was covered medically.

25 Q. Would you hold that against them; would you count

1 that as a negative in awarding chief points?

2 A. No.

3 Q. What if somebody didn't have medical
4 documentation and exceeded the allotted amount of sick
5 days; how would that affect the award of service
6 points?

7 A. Yes. It could affect the award of service
8 points, if we identified a pattern of sick abuse or
9 sick use that turned into abuse.

10 Q. Okay. That's easy to quantify, right, because
11 you keep track of that, right?

12 A. Yes.

13 Q. Letters of commendation, that's easy to quantify;
14 you keep track of that, right?

15 A. Yes.

16 Q. Tell me about some of the other quantitative data
17 that you consider in awarding chief points, things
18 that you can quantify?

19 MR. MCHUGH: Objection as to form. You
20 can answer.

21 Q. You have letters of commendation; we have sick
22 days. What else?

23 A. As far as quantifying, that's about it. It's
24 more the overall performance and the production within
25 the respective district. If their respective

1 workforce is producing at a high level.

2 Q. What does that mean, producing?

3 A. A lot of activity. I mean, there is no
4 quota.

5 Q. Arrests?

6 A. Arrests, summons.

7 Q. So number of arrests. What's the -- I have no
8 idea how many arrests is a good number or a bad
9 number. How do you evaluate whether someone has an
10 above-average amount of arrests, or average, or below
11 that?

12 MR. MCHUGH: Objection as to form. You
13 can answer.

14 A. You can't. Some districts are busier than
15 others. Some districts are busier during more
16 seasonal times than others. It's not a set number.
17 Some districts are more active than others.

18 Q. Sure, sure. There's probably less arrests on the
19 East Side than there are in South Providence, right?

20 A. Correct.

21 Q. Is it fair to compare sergeants within the same
22 district as to the number of arrests?

23 MR. MCHUGH: Objection.

24 Q. Is that a fair way to evaluate someone's
25 performance?

1 MR. MCHUGH: Objection to form. You can
2 answer.

3 A. No.

4 Q. Why not?

5 A. Because there is only one sergeant on each
6 shift. So to compare a day sergeant with a
7 three-to-eleven or eleven sergeant is not fair,
8 because the volume of calls is higher on the night
9 shift.

10 Q. Okay. So you don't take into account the number
11 of arrests then when you're awarding service points?

12 A. Again, there are other things considered in
13 the overall operations of a district. It's really not
14 quantifiable.

15 Q. What about civilian complaints; is that something
16 that you would consider in awarding chief points?

17 A. Yes.

18 MR. MCHUGH: Objection as to form.
19 Civilian complaints, vague, lack of foundation.

20 Q. Do you understand the question?

21 A. Yes.

22 Q. It's only two, the only quantitative data you
23 would consider in awarding chief points would be
24 letters of commendation and sick days?

25 A. Quantitative, yes.

1 Q. How does everybody prepare for these meetings;
2 what do they do, to your knowledge, to prepare?

3 MR. MCHUGH: Objection to form. You can
4 answer.

5 A. All different. It's not set in writing, not
6 set in stone. Many will look for abusive sick time,
7 look for activity and look for letters of commendation
8 or praise. As well just identify their overall
9 performance of their day-to-day activities.

10 Q. How does the command staff, how do the command
11 staff and the supervisors know all this information?

12 A. Because they're actively engaged day to day,
13 shift by shift, community by community.

14 Q. Is it just memory?

15 A. Overall mindset, yes.

16 Q. How can they remember how many sick days that an
17 applicant took?

18 A. They cannot. They don't have a number in
19 their head. I think they just identify, I heard it.
20 They will just identify when there is a signal of
21 abuse or a lot of sickness.

22 Q. Does anybody, whether it's -- I'm sorry, I can't
23 remember his title. Sergeant Grenada, does Sergeant
24 Grenada provide information on sick days to people at
25 these meetings?

1 A. Yes.

2 Q. He does?

3 A. Yes.

4 Q. How does he do that?

5 A. Through a -- I don't know if he did for this
6 one. I know on occasions he has through written
7 documentation for respective lieutenants or command
8 staff, members who inquire.

9 Q. So someone has to ask Sergeant Grenada before he
10 will produce a number of sick days?

11 A. Traditionally, yes.

12 Q. It's not information that is provided on those
13 score sheets, is it?

14 A. Correct.

15 Q. Same thing with the letter of commendation and
16 arrests, that information is not put on the score
17 sheet, is it?

18 A. That's correct.

19 Q. Okay. Are the folks present at these meetings,
20 the command staff and supervisors, are they allowed to
21 review personnel files, 201 files prior to these
22 meetings?

23 A. Yes.

24 Q. Is that a practice that they undertake, to your
25 knowledge?

1 MR. MCHUGH: Objection to form.

2 A. Some do.

3 Q. Do you know prior to this meeting in June 2012 if
4 any supervisors or the command staff reviewed any
5 applicant's personnel files?

6 A. I don't.

7 Q. Were personnel 201 files, or performance
8 evaluations, or any other documents present or made
9 available to the people present at this meeting in
10 June of 2012 for them to review?

11 MR. MCHUGH: Objection to form. You can
12 answer.

13 A. At that meeting, no.

14 Q. What about prior? What about discipline; how do
15 you factor in an applicant's discipline in awarding
16 chief points?

17 A. Certainly if they had an active, recent
18 discipline, that would be considered in the award of
19 service points.

20 Q. Okay. How recent, and what kind of discipline?

21 A. There is no set time on how recent. There
22 are acts of discipline from verbal, to written, to
23 days of suspension, to lengthy suspensions, to
24 demotion. So certainly something more egregious would
25 be held in higher regard.

1 Q. I'm curious as to how far back you go with
2 discipline. I believe you testified last week that
3 you only consider their overall performance in their
4 current position, right?

5 MR. MCHUGH: Objection as to form. If
6 you recall that independently without seeing the
7 deposition.

8 A. I believe I testified I considered the
9 overall performance in their present position as well
10 as for the rank they're aspiring to it. That
11 certainly comes into play in awarding points. As
12 well, as far as discipline, again, there is no set
13 time limit going back.

14 There are certain acts that are so egregious
15 that, you know, they may never be forgotten by
16 somebody on the command staff. Me, personally, if
17 there's been a transgression of some sort and time has
18 passed and they served their punishment, you know,
19 we're a big agency. We have a lot of good employees.
20 I like to say we move on.

21 Q. Okay. You said there are certain people in the
22 command staff, that there are certain acts too
23 egregious that they'll never forget them. Who are the
24 people in the command staff, and what are the acts
25 that are so egregious that they never forget them?

1 MR. MCHUGH: Objection.

2 A. I don't know. I can't speculate.

3 Q. Hold on. You just said there are certain people
4 in the command staff. That's a very specific
5 statement, and there's not that many people in the
6 command staff. Let's go through each of the people
7 and tell me which people it is.

8 MR. MCHUGH: Before we do that, can she
9 read back the answer? Can you read the question
10 before that somewhere?

11 (QUESTION AND ANSEWR READ BACK)

12 MR. MCHUGH: I think that time was why I
13 was objecting. I thought he said there may be some
14 people on the command staff. I don't believe he said
15 there are some people. That's why I objected. Thank
16 you.

17 I'm going to need to get the transcript over
18 here. We can keep going. I need to call over to the
19 office.

20 MR. GAGLIARDI: I'm not trying to impeach
21 him with his testimony.

22 MR. MCHUGH: I didn't know we had it. I
23 would have looked at it before today.

24 Q. So who are those people on the command staff that
25 don't forget egregious acts?

1 A. So to clarify, when I speak about members of
2 the command staff, I've been at several of these
3 sessions where they award points from going back
4 several command staff administrations. Who in
5 particular, I don't know.

6 We'll throw out a name for service points, and
7 somebody in the room may say an act he committed
8 several years ago. Who in particular, I don't know.
9 I mean, that's how these meetings are conducted, and
10 they've always been that way.

11 Q. Give me an example of the last time that happened
12 in your recollection.

13 A. In general, I can think of like a Danny
14 McCarthy. When his name is brought up, people in the
15 command staff may say the time that he was driving
16 intoxicated and he ran, he hid under a boat.
17 Everybody remembers that. Or somebody will throw that
18 out there. Years ago.

19 Q. When did that happen?

20 A. Several years ago.

21 Q. More than ten?

22 A. Yes.

23 Q. Okay. So was he ever promoted after that
24 incident?

25 A. No.

1 Q. Do you remember what he received for chief points
2 in promotional exams?

3 A. I don't.

4 Q. To your knowledge, is the reason he wasn't
5 promoted because of that incident, or did he not score
6 well on the written exam?

7 MR. MCHUGH: Objection as to form. Lack
8 of foundation. Do we know he applied?

9 A. I don't know.

10 Q. Do you know if Mr. McCarthy applied for a
11 promotional exam, took a promotional exam?

12 A. He did.

13 Q. Was he promoted, to your knowledge?

14 A. I don't -- to sergeant, no.

15 Q. Okay. The bottom line, though, is you, Hugh
16 Clements, are willing to give people a second chance,
17 right?

18 A. Yes.

19 Q. You're the final decisionmaker in awarding the
20 service points, right?

21 A. Yes.

22 MR. GAGLIARDI: Obviously the incidents
23 you just mentioned with Mr. McCarthy, I just want to
24 state for the record, the witness opened up the door
25 to speak about this officer.

1 MR. MCHUGH: I understand.

2 MR. GAGLIARDI: So it's not a violation
3 of the court order, in my opinion.

4 MR. MCHUGH: I don't have any problem
5 with it.

6 Q. That incident sounds like it was pretty
7 egregious, so that would stick out in everybody's
8 mind, right?

9 A. Yes.

10 Q. How does everybody at the command staff, on the
11 command staff and the supervisors present at these
12 meetings remember discipline that is less egregious
13 and more of the garden-variety type?

14 MR. MCHUGH: Objection to form. You can
15 answer.

16 A. In general, some have better memories than
17 others. They'll remember exactly what that person
18 got. Others will just remember the act and not know
19 what the discipline was.

20 Q. Okay. I guess my question is, do the folks
21 present at these meetings review documented prior
22 discipline before they make a recommendation of
23 service points?

24 MR. MCHUGH: Objection to form. If you
25 know.

1 A. Some do; some don't. There are a lot of
2 people in the room.

3 Q. The ones that do, how do they go about doing
4 that?

5 A. They can request through human resources to
6 review someone's personnel file or ask for information
7 from the sergeant in human resources.

8 Q. Did that happen at the June 2012 meeting, to
9 discuss service points for the lieutenants promotional
10 exam?

11 A. I don't know.

12 Q. Who would know that information?

13 A. The individual officers, if they asked.

14 Q. What about Sergeant Grenada; would he, would he
15 know that?

16 A. He would know.

17 Q. When someone asks to review a personnel file,
18 does he document that, to your knowledge, that
19 request?

20 A. I can't be positive on that.

21 MR. GAGLIARDI: Okay. All right. Let's
22 take a look at this.

23 (EXHIBIT D PLAINTIFF'S MARKED FOR ID)

24 MR. GAGLIARDI: You've just been handed
25 Plaintiff's Exhibit D, which I'm going to represent to

1 you are the score sheets from the lieutenants
2 promotional exam of June 16, 2012. These documents
3 were e-mailed to me by your attorneys. Kevin, do you
4 have any objection if we number the pages?

5 MR. MCHUGH: No.

6 Q. If you don't mind, sir, if I could have the
7 exhibit, I'm going to number each page in the lower
8 right-hand corner one to seven. All right, let's
9 start with Page 1. It looks like there's someone's
10 name written in cursive in the upper right-hand
11 corner. Do you know whose name that is?

12 A. Yes. Keith Tucker.

13 Q. What was his position at the time?

14 A. He was a Major in charge of the Investigative
15 Division.

16 Q. What is the Investigative Division?

17 A. Comprises several smaller bureaus. Mainly
18 the Detective Bureau that investigates major crimes,
19 violent crimes, homicide, robbery, burglary, sex
20 assault. As well, it has smaller units like the
21 bureau of criminal identification, special victims
22 unit, the robbery squad. Narcotics and organized
23 crime will fall under the Investigative Division.

24 The Youth Service Bureau investigates youth crime
25 and falls under the Investigative Division. So that

1 division comprises several bureaus.

2 Q. To your knowledge, how much interaction did he
3 have with Sergeant Mancini and Sergeant Mancini's
4 capacity as a sergeant?

5 A. Would have been generally limited, unless he
6 was up in detectives turning the case over. Prior to
7 that, I don't know.

8 Q. To your knowledge, is that the service points
9 that are written in the column entitled Service
10 Points, is that Major Tucker's handwriting, to your
11 knowledge?

12 A. I can't say for sure.

13 Q. Do you have any reason to believe that it's not
14 his handwriting?

15 A. No.

16 Q. Okay. Did you hand Major Tucker one of these
17 blank score sheets?

18 A. Yes.

19 Q. Did Major Tucker hand this back to you at the
20 meeting or after the meeting?

21 A. I believe it was after the meeting.

22 Q. Did you write anywhere on this sheet?

23 A. No.

24 Q. Do you see Numbers 5 and 6, Officer Donnelly,
25 Officer Dwyer?

1 A. Yes.

2 Q. There's two marks next to five and six?

3 A. Yes.

4 Q. Did you make those marks?

5 A. No.

6 Q. Do you have any explanation why those two names
7 are marked?

8 A. No.

9 Q. Well, let's look at their present jobs. One is a
10 detective, Dwyer is a detective, and Donnelly is a
11 BCI?

12 A. Yes.

13 Q. Does that mean that those two officers report to
14 Tucker?

15 A. Again, I can't be positive, but in all
16 probability, that's what that means. Those two guys
17 were assigned to him.

18 Q. He gave them both fives, right?

19 A. Yes.

20 Q. Who else on this list would have been assigned to
21 Major Tucker, other than Donnelly and Dwyer?

22 A. Gannon.

23 Q. What's YSB?

24 A. Youth Service Bureau.

25 Q. That came under Major Tucker's purview, right?

1 A. Yes.

2 Q. Who else on this list would have been assigned to
3 Tucker's command?

4 A. Number 11, Kevin Lanni, narcotics and
5 organized crime.

6 Q. Okay.

7 A. Number 19, George Smith, Bureau of Criminal
8 Identification.

9 Q. Okay.

10 A. Number 21, Mike Wheeler, YSB.

11 Q. All the people that you just mentioned were all
12 assigned to Keith Tucker's Investigative Division?

13 A. Yes.

14 Q. Would you agree with me that he gave them all
15 fives for service points?

16 A. Yes.

17 Q. Okay. Let's look at Page 2. Whose score sheet
18 is this?

19 A. Tom Oates.

20 Q. His position was at the time?

21 A. Deputy Chief.

22 Q. To your knowledge, how long has he known Mark
23 Mancini?

24 A. I don't know.

25 Q. To your knowledge, did Commander Oates, was he

1 ever Sergeant Mancini's direct supervisor?

2 A. I'm not sure.

3 Q. Whose handwriting is this on Tom Oates' score
4 sheet?

5 A. That is his.

6 Q. Do you recognize that to be his handwriting?

7 A. Yes.

8 Q. Does your handwriting appear anywhere on this
9 sheet?

10 A. No.

11 Q. Do you see Numbers 3, 4, 18 and 19 where it says
12 Service Points, and he has a line through them?

13 A. Yes.

14 Q. Do you know why he did that?

15 A. No.

16 Q. Would it have been because they didn't take a
17 promotional exam, and there were no previous service
18 points?

19 A. Quite possibly.

20 Q. All right. Do you see where it's written Last
21 Test, and then there is an arrow?

22 A. Yes.

23 Q. Did you write that?

24 A. No.

25 Q. Do you have any reason to believe that Tom Oates

1 did not write that?

2 A. No.

3 Q. Okay. So when you, when did Tom Oates give you
4 this sheet in relation to the meeting?

5 A. After.

6 Q. When you were given this sheet, you read it?

7 A. Yes.

8 Q. What was your understanding of that notation,
9 Last Test?

10 A. Those were the points awarded on the previous
11 exam they took.

12 Q. Mancini was given a five, correct?

13 A. Yes.

14 Q. Okay. Then I'm going to represent for the record
15 that on Page 2 on Tom Oates' score sheet there's Xs
16 next to Number 12, Mark Mancini, Number 15, Elizabeth
17 Romano, and Number 16, Edward Ryan; did you make those
18 Xs yourself?

19 A. No, no.

20 Q. Did you have any reason to believe Tom Oates did
21 not make those Xs?

22 A. No.

23 Q. When you received this sheet, did you notice that
24 those names were X'd off?

25 A. I don't recall if I noticed when he handed it

1 to me.

2 Q. Do you have an opinion as to why those names are,
3 have an X next to them?

4 A. I don't.

5 Q. Then there's three columns of handwritten
6 numbers. One has written next to it, Last Test, which
7 you testified those were the last chief points given
8 to these candidates. Then there are two other
9 columns. What is your understanding of what those two
10 columns represent, two columns of numbers?

11 A. The final score is on the right-hand index
12 and the, I'm not quite sure why he has these numbers
13 here. I would speculate as to why. I don't know.

14 Q. Well, would you agree with me that both columns
15 are identical, except for Sergeant Mancini who had a
16 three in one column and a zero in the other column?
17 Elizabeth Romano who had a five and then a 4.5, and
18 that Edward Ryan had a 4.5 and then a 4. Would you
19 agree with that?

20 A. Yes.

21 Q. Are those, I'm going to represent to you, would
22 you agree that those are also the same people that had
23 Xs next to their names?

24 A. Yes.

25 Q. Okay. Does that refresh your recollection as to

1 why he might have put an X next to those names?

2 A. Again, I believe, I know the right-hand side
3 on the index is his final score. I'd be speculating.
4 I believe that's a working column, middle column.

5 Q. Is the middle column, does that represent what
6 everybody else in the room recommended for everybody?

7 A. I don't know.

8 Q. That the column to the right is his final tally?

9 A. I don't know.

10 Q. Okay. Had you ever been present, before you were
11 Police Chief, had you ever been present with Tom Oates
12 in one of these meetings?

13 A. Yes.

14 Q. Did you have the occasion or the opportunity to
15 review any of his score sheets for previous
16 promotional exams?

17 A. I'm not sure.

18 Q. Okay. Let's go back to Major Tucker. He
19 recommended that Mancini get a three, right?

20 A. Yes.

21 Q. Do you recall if Major Tucker spoke about
22 Sergeant Mancini or offered an opinion about his
23 overall performance at that meeting?

24 A. I don't.

25 Q. Do you recall if Major Tucker made any negative

1 remarks about Sergeant Mancini's overall work
2 performance?

3 A. I don't. I don't recall.

4 Q. Deputy Chief Oates recommended that Mancini get a
5 zero, correct?

6 A. Yes.

7 Q. Do you recall what Deputy Chief Oates said about
8 Sergeant Mancini's overall work performance?

9 A. At that meeting, no.

10 Q. What about after the meeting?

11 A. Later, before he turned in the final scores,
12 he spoke about some of the negative things I spoke
13 about at the last session.

14 Q. Well, tell me exactly what Deputy Chief Oates
15 said. This is very important.

16 MR. MCHUGH: Move to strike, This is very
17 important. You can answer. Objection as to form.

18 A. I don't know exactly what Commander Oates
19 said. I don't.

20 Q. Okay. He gave Sergeant Mancini a zero, right?

21 A. Correct.

22 Q. That was the lowest possible score you could have
23 given him, right?

24 A. Yes.

25 Q. So tell me about the discussion you had with Tom

1 Oates about why he is recommending the lowest possible
2 score to Sergeant Mancini?

3 MR. MCHUGH: Objection to form. You can
4 answer.

5 A. Before I turn the points in, he gave me his
6 sheet. I asked him what he was giving all the
7 candidates. He told me. He turned this sheet into me
8 specifically. I don't know what he said specifically.
9 I don't.

10 Q. Did you ask him why he was giving Mancini a zero?

11 A. In general, he spoke about some negative
12 attitude and not a team player. In specifics, I can't
13 tell you.

14 Q. Did you ask Tom Oates why you thought Mark
15 Mancini had a negative attitude?

16 A. No.

17 Q. Did you ask Tom Oates why he thought Mark Mancini
18 was not a team player?

19 A. No.

20 Q. Why not?

21 A. I didn't.

22 Q. I mean, were you surprised to see that he gave
23 Mancini a zero?

24 A. Somewhat, yes.

25 Q. Were you aware of any discipline that Sergeant

1 Mancini had received during the time that he had been
2 a sergeant?

3 A. No.

4 MR. MCHUGH: Objection. Not objection,
5 but could you read that last question back, please?

6 (QUESTION READ BACK)

7 MR. MCHUGH: Thank you.

8 THE WITNESS: No.

9 Q. Were you aware of any civilian complaints that
10 were lodged against Sergeant Mancini at the time that
11 this zero was recommended by Mr. Oates?

12 A. No. During that recent time frame or during
13 his career?

14 Q. No, at the time that service points were
15 discussed for these candidates, were you aware of any
16 civilian complaints that had been lodged against
17 Sergeant Mancini?

18 A. I'm just trying to be clear. How far back?
19 In between that past year or in between tests?

20 Q. Well, you tell me, how far back do you go?

21 A. Traditionally, you know, in between tests or
22 a year or two. You know --

23 Q. You mean you go back a year or two or what, for
24 civilian complaints or all discipline?

25 A. Civilian complaints.

1 Q. Okay. So were you aware of any civilian
2 complaints against Sergeant Mancini?

3 A. I was not.

4 Q. Okay. Did you have, were you aware -- strike
5 that. Did you believe that his productivity was below
6 average as a police officer?

7 A. His activity was nonapplicable. He wasn't in
8 work for that period of time.

9 Q. Because he was on IOD, right?

10 A. Yes.

11 Q. Did you hold that against him in terms of
12 awarding the chief points?

13 A. No.

14 Q. What about sick days; did Tom Oates state to you
15 or indicate that he was dissatisfied with Mancini's
16 number of sick days?

17 A. I don't recall.

18 Q. Did Tom Oates tell you that he was giving
19 Mancini a zero because he was on IOD status?

20 A. No.

21 Q. Did Tom Oates express to you any negative remarks
22 or comments about Mancini being on IOD status?

23 A. No.

24 Q. Were you aware of any altercation that Mancini
25 had with Tom Oates that would have caused him to say

1 that he had a negative attitude?

2 A. No.

3 Q. Okay. So Tom Oates didn't give you any specific
4 details about why he thought Mancini had a negative
5 attitude and was not a team player, right?

6 A. Correct.

7 Q. You testified that you were somewhat surprised
8 that Mancini got a zero. So my question is, why were
9 you somewhat surprised?

10 MR. MCHUGH: Objection as to form. I
11 think he said he was somewhat surprised that Oates
12 gave him a zero.

13 Q. Okay. Why were you somewhat surprised that Oates
14 gave him a zero?

15 A. I'm surprised when anyone is given a zero.
16 That is a number that would be surprising.

17 Q. Okay. Do you think Deputy Chief Oates just has a
18 personalty, or had a personality conflict with
19 Mancini, just didn't like him?

20 A. I have no reason to believe that.

21 Q. Did you direct Tom Oates to recommend that
22 Mancini get a zero?

23 A. No.

24 Q. Do you know if someone else recommended that Tom
25 Oates give Mancini a zero?

1 A. I don't.

2 Q. So you were surprised that he got a zero, but you
3 didn't try to find out why he got a zero, right?

4 A. In specific, no.

5 Q. Why not?

6 A. That was his final assessment. I ask for
7 their input, the members of the command staff in
8 particular.

9 Q. Had you ever sat in on one of these meetings
10 before you became Police Chief where Tom Oates was
11 present and filling out a score sheet?

12 A. Yes.

13 Q. Do you recall another incident where Tom Oates
14 recommend that a candidate get a zero?

15 A. I don't recall, but I would not be surprised
16 if he did.

17 Q. Why?

18 A. Because I think he rates people effectively,
19 how he feels.

20 Q. Is he a tough grader, in your opinion?

21 MR. MCHUGH: Objection to form.

22 A. Yes. I think he's fair.

23 Q. Did you have any discussions with Tom Oates about
24 some of the scores that he recommended for other
25 candidates?

1 A. Yes.

2 MR. GAGLIARDI: All right. I'm just
3 going to caution you not to talk about, specifically
4 about a police officer's work performance. I just
5 want to know which ones, then we can talk about that
6 later on, and we'll ask Sergeant Mancini to leave the
7 room.

8 MR. MCHUGH: You know, I don't have a
9 problem with Sergeant Mancini being here for these
10 types of questions on the awarding of points.

11 MR. GAGLIARDI: Well, what happens if we
12 have to get into specific discipline performance?

13 MR. MCHUGH: What I was going to say,
14 yes, I would object to the specific disciplinary
15 matters. If it's other than that, I don't have a
16 problem with his being here.

17 MR. GAGLIARDI: Well, I don't know that
18 he's going to be able to give complete responses if
19 they're limited.

20 MR. MCHUGH: You can do what you want.
21 I'm just saying --

22 Q. I'm just going to ask you to identify which
23 people you spoke of, and then we can talk about it a
24 little bit later.

25 A. The only one I really recall is Liz Romano.

1 Q. Okay. Did you ask him why he gave her a, looks
2 like he gave her a 4.5, or did he initiate the
3 discussion about her, the chief points he was
4 recommending?

5 A. I'm not sure how it started, but I remember
6 asking him about Liz Romano.

7 Q. Okay. Why did you ask him about Liz Romano?

8 A. I thought she was a five, considered a five.
9 I was just wondering why or what he may know to
10 consider her less than a five.

11 Q. He only gave her a 4.5, right?

12 A. Right.

13 Q. But you didn't ask him why he thought Mancini was
14 a zero?

15 A. I did. In general, you know, he talked about
16 the negative aspects and not a team player. In
17 specifics, no, I did not.

18 Q. Let's go to Page 3. Whose score sheet is this?

19 A. Lapatin.

20 Q. What was his title?

21 A. He was a Captain.

22 Q. I believe you testified earlier that he was not
23 in charge of Mancini's district, right?

24 A. His district, no.

25 Q. Do you have any reason to believe that this is

1 not Captain Lapatin's handwriting on this sheet?

2 A. No.

3 Q. All right. Let's look at the column where it's
4 written last name, look at the candidates name, and
5 then there's checkmarks and numbers written right next
6 to the name in that column. Then it looks like
7 there's numbers written in the column where it says
8 Seniority Points. It looks like he just may have
9 written it in the wrong column?

10 A. Yes.

11 Q. Did Captain Lapatin give you this score sheet at
12 the end of the meeting or afterwards?

13 A. Afterwards.

14 Q. He recommended that Mancini get a two, right?

15 A. Yes.

16 Q. Do you recall if Captain Lapatin made any
17 comments about Sergeant Mancini's overall performance
18 at the meeting?

19 A. At that meeting, no.

20 Q. You do not recall, or he didn't?

21 A. I don't recall.

22 Q. When Captain Lapatin handed you this completed
23 sheet, did you review it?

24 A. Yes.

25 Q. Did you ask him about the points he recommended

1 for any of the candidates?

2 A. I don't recall if I quizzed him on each of
3 the candidates.

4 Q. Do you know why he has checkmarks next to some
5 names and numbers written next to others?

6 A. No.

7 Q. What division was Captain Lapatin in charge of at
8 the time?

9 A. I'm not positive for that date. He was, he
10 was in flux. I'm not sure where he was. He spent a
11 long time in patrol, then he moved to Internal
12 Affairs. I believe he was in Internal Affairs.

13 Q. Go to Page 4. Whose score sheet is this?

14 A. Verdi.

15 Q. What is his first name?

16 A. Tom.

17 Q. What was his title at the time?

18 A. He was a Major in the Uniform Division.

19 Q. Okay. Did you recognize the handwriting on this
20 document to be his?

21 A. Yes.

22 Q. Do you have any reason to believe it's not?

23 A. No.

24 Q. Do you see in the column to the far right where
25 it looks like there are numbers written?

1 A. Yes.

2 Q. Did Mr. Verdi give these score sheets to you at
3 the meeting or after the meeting?

4 A. After.

5 Q. Did you read it?

6 A. Yes.

7 Q. What did you interpret those numbers to be on the
8 far right-hand column?

9 A. His recommendation for service points to me.

10 Q. Do you see that there's, on five of the
11 candidates it looks like a number was written, or
12 something was written and scribbled out, and then a
13 number was written to the right of it; do you see
14 that?

15 A. Yes.

16 Q. Do you know who did that?

17 A. No.

18 Q. Did you do that?

19 A. No.

20 Q. Did you direct someone to do that?

21 A. No.

22 Q. Did anybody in your office do that?

23 A. No.

24 Q. Do you know if Mr. Verdi did that?

25 A. I don't. I believe he did, but I don't know

1 for sure. That's the sheet he turned in to me.

2 Q. Again, similar to Captain Lapatin, Mr. Verdi has
3 this time next to the, in the column for first name he
4 has numbers written and then checkmarks; do you see
5 that?

6 A. Yes.

7 Q. Then for Sergeant Mancini he has a three next to
8 his first name, but in the far right column he has
9 written a one. Did you have any discussions with Tom
10 Verdi about why he recommended Sergeant Mancini get a
11 one?

12 A. Not that I can recall specifically.

13 Q. Were you surprised that Tom Verdi recommended
14 that Mancini get a one?

15 A. Again, somewhat, yes.

16 Q. So if you were surprised, why didn't you ask him
17 why he was giving him a one?

18 A. I ask for the command staff's best
19 recommendation for, to forward me service points. In
20 the end, that is his final assessment. I don't recall
21 a specific conversation.

22 Q. That doesn't answer my question. Why didn't you
23 ask him?

24 A. I may have. I don't recall.

25 Q. You asked Tom Oates why he gave Mancini a zero,

1 right?

2 A. Right.

3 Q. But you didn't ask Mr. Verdi why he gave Mancini
4 a one?

5 A. I may have. I don't recall.

6 Q. Did Tom Verdi comment on Sergeant Mancini's work
7 performance at this meeting?

8 A. I don't recall specifically what he said.
9 Everybody was involved in the conversation. I don't
10 recall exactly what he said.

11 Q. Do you know how -- strike that. In June of 2012
12 was Mancini working in a district that ultimately
13 reported to Verdi?

14 A. Yes.

15 Q. Do you know how long he had been working under
16 Mr. Verdi?

17 A. No.

18 Q. Okay. Do you know how long Mancini had been
19 working under Lapatin, or was he working under
20 Lapatin?

21 A. He did for, previous to Verdi, yes.

22 Q. What about Oates, had Mancini ever worked under
23 Oates?

24 A. I'm not sure.

25 Q. Wouldn't that be important information to know?

1 A. Again, we've all been around that building a
2 long time. I'm sure at some point he did work for
3 Oates. Oates was in patrol a very long time. I know
4 at some point he did fall under his command. I don't
5 know for how long and where.

6 Q. Do you think that Tom Verdi had a personal
7 dislike for Mark Mancini, or a personality conflict,
8 or just didn't like him?

9 A. I don't know.

10 Q. During the time that you worked in the Providence
11 Police Department, do you remember a time where
12 somebody recommended low service points for someone
13 because they just didn't like them, and it had nothing
14 to do with their work performance?

15 MR. MCHUGH: Objection to form.

16 A. No.

17 Q. No?

18 A. No.

19 Q. People can be petty sometimes. You agree with
20 that, right?

21 A. Yes.

22 Q. You don't recall a time where somebody
23 recommended low service points because they just
24 didn't like the guy?

25 A. No. I can't say that.

1 Q. Okay. Did you ask, looks like Richard Fernandes,
2 looks like Tom Verdi recommended that Richard
3 Fernandes get a one?

4 A. Yes.

5 Q. And also Steven Courville, he recommended he get
6 a one?

7 A. Yes.

8 Q. Did you have discussions with Tom Verdi about why
9 he recommended those officers get ones?

10 A. In particular, I don't recall. I'm sure I
11 did, but I don't recall what was said.

12 Q. Were you surprised that those police officers got
13 ones?

14 A. Yes. Again, it's a low number.

15 Q. Okay. Page 5, whose score sheet is this?

16 A. Frank Colon.

17 Q. What was his title?

18 A. He was a Major.

19 Q. Was he in charge of a division that Mancini
20 ultimately reported to at the time?

21 A. No.

22 Q. Do you know if he had any direct supervisory
23 experience with Mancini during his career?

24 A. I'm not sure.

25 Q. Did you ask him if he did?

1 A. I don't recall if I did.

2 Q. Okay. There's numbers, okay? Do you know if,
3 there is a name, it looks like Frank Colon. It's
4 written in maybe cursive in the upper left-hand
5 corner. Is that Mr. Colon's handwriting, to your
6 knowledge?

7 A. Yes.

8 Q. Then there are some numbers written in the column
9 under service points; do you see those numbers?

10 A. Yes.

11 Q. Then look at, look at the, what is in the box for
12 candidate Numbers 2, 5, 6, 9, 11, 13, 14, 19 and 21;
13 do those look like handwritten numbers to you?

14 A. No.

15 Q. Okay. My understanding is you gave blank sheets
16 to everybody before the meeting, right?

17 A. Yes.

18 Q. Do you have an explanation as to why those
19 numbers that I just referenced are not handwritten?

20 A. No.

21 Q. Okay. Did Mr. Colon hand this sheet to you after
22 the meeting or during the meeting?

23 A. After.

24 Q. Do you know if somebody whited out or deleted
25 some of the other information that was on this sheet

1 and handwrote those numbers?

2 A. I don't know.

3 Q. Did you ask someone to do that?

4 A. No.

5 Q. Did you direct someone to do that?

6 A. No.

7 Q. Did someone else direct someone else to do that?

8 A. Not that I'm aware of.

9 Q. Okay. Do you have an explanation as to why some
10 of the numbers are handwritten and others are typed?

11 A. No.

12 Q. Frank Colon recommended that Sergeant Mancini get
13 a zero, right?

14 A. Yes.

15 Q. Were you surprised that Major Colon recommended
16 Mancini get a zero?

17 A. Yes.

18 Q. Why?

19 A. Because it's the lowest number.

20 Q. Did you ask Major Colon why he gave Mancini a
21 zero?

22 A. I don't recall the specifics and what the
23 conversation was, but I would say that I was
24 surprised, yes.

25 Q. Do you recall if at the meeting Major Colon spoke

1 about Sergeant Mancini's work performance?

2 A. In particular, I don't know if he did.
3 Again, this is a wide-open conversation, that the
4 meeting takes place for a very long time. It's not
5 recorded. I don't recall what he said.

6 Q. Do you know if he spoke at all about Mancini?

7 A. I'm not sure.

8 Q. Let's look at Page 6. Whose score sheet is this?

9 A. Robert Lepre.

10 Q. What was his position at the time?

11 A. He was a Captain in the Uniform Division.

12 Q. Okay. Do you recognize his handwriting on this
13 sheet?

14 A. Yes.

15 Q. Do you recognize it to be his handwriting?

16 A. Yes.

17 Q. Did he give you this sheet at the meeting or
18 after the meeting?

19 A. After.

20 Q. He gave, he recommended Mancini get a zero,
21 right?

22 A. Yes.

23 Q. Were you surprised that he recommended Mancini
24 get a zero?

25 A. Yes.

1 Q. Did you ask him why he recommended Mancini get a
2 zero?

3 A. I'm sure I did.

4 Q. What did he say?

5 A. I don't recall specifically, but I'm sure I
6 did.

7 Q. Do you recall if Captain Lepre spoke about
8 Mancini's work performance at this meeting?

9 A. I don't recall specifically what Bobby Lepre
10 said, I don't.

11 Q. Do you know how long, how long did Sergeant
12 Mancini work under Captain Lepre?

13 A. I know he would have worked with him along
14 the way. For how long, I don't know.

15 Q. How come you don't know how long Mancini worked
16 with all of these supervisors?

17 A. People move. I mean, both, not only Mark
18 Mancini, but people underneath move. People up top,
19 whether they're sergeants, lieutenants, captains, they
20 move to different divisions, different bureaus. It
21 would be impossible to keep track of how long each
22 officer worked under each sergeant or lieutenant.

23 Q. Well, did you ask anybody, Hey, how long have you
24 worked with this guy?

25 A. I'm sure I did in conversation, and say, Did

1 you ever work with him along the way; where did you
2 work together; how would you even know him?
3 Specifically, I don't recall what those conversations
4 were.

5 Q. Do you know if Robert Lepre had a personal
6 dislike for Sergeant Mancini?

7 A. No, I don't know.

8 Q. Did he make any negative or disparaging remarks
9 about his work performance at this meeting?

10 A. Specifically that I can recall, no.

11 Q. Let's go to page 7. Whose score sheet is this?

12 A. William Campbell.

13 Q. What was his position?

14 A. He was a Captain.

15 Q. Did Captain Campbell give you this score sheet at
16 the meeting or after the meeting?

17 A. After.

18 Q. So it sounds like nobody gave you the score
19 sheets at the meeting; is that correct?

20 A. Correct. That's pretty routine as well.

21 Q. Okay. Captain Campbell, similar to a few other
22 supervisors, has numbers written next to the
23 applicants' last name, then he has numbers written in
24 the column entitled Service Points?

25 A. Yes.

1 Q. Do you know why he did that?

2 A. No.

3 Q. A couple of candidates he's got, it looks like
4 there is something written and then scribbled out and
5 a number written next to it, candidate Number 4,
6 candidate Number 22. Do you know who scribbled out
7 whatever was written there?

8 A. No.

9 Q. Did you do that?

10 A. No.

11 Q. He's recommending Mancini get a two, right?

12 A. Yes.

13 Q. How long had Captain Campbell been in a
14 supervisory capacity over Mark Mancini as of this
15 date?

16 A. For awhile. Specifically, I don't know how
17 long.

18 Q. Well, what division was he in charge of?

19 A. At this particular time I think he was in the
20 Youth Service Bureau out of the Uniform Division.
21 Previous to that, he was in patrol for a very long
22 extended period of time.

23 Q. Were you surprised that Captain Campbell gave
24 Mancini a two?

25 A. Yes.

1 Q. Did you ask him why he gave him a two?

2 A. I'm sure I did.

3 Q. Do you know what he said?

4 A. I don't know exactly.

5 Q. Do you see next to Mancini's name, if you follow
6 it down to the right where it says Educational Points
7 and Seniority Points, it looks like there are three
8 lines?

9 A. Yes.

10 Q. Did you write that, make those three lines?

11 A. No.

12 Q. Do you know who did?

13 A. No.

14 Q. So there are a few other candidates that received
15 low scores. Candidate Number 4 and candidate Number
16 22 they both received twos?

17 A. Yes.

18 Q. Did you ask Captain Campbell why he gave those
19 candidates twos?

20 A. I'm sure I did.

21 Q. Do you remember what he said?

22 A. I don't.

23 (OFF THE RECORD)

24 (LUNCH BREAK)

25 Q. Chief Clements, I wanted to clear up a couple of

1 things from before we took lunch. When I asked you at
2 what point did the people at the meeting to determine
3 chief points, at what point did they hand you in their
4 score sheets. I asked you if they handed them in
5 before the meeting or after the meeting. I believe
6 you testified that all seven people handed them to you
7 after the meeting, right?

8 A. I believe so, yes.

9 Q. Was it the same day, or was it the next day?

10 A. It was not the same day. I'm not sure which
11 day it was subsequent to the service points meeting,
12 but was it obviously prior to me turning them in.

13 Q. There was a service points meeting that happened
14 on one day?

15 A. Right.

16 Q. The sheets were handed out, filled out by the
17 command staff and supervisors and handed to you, at
18 the very earliest, the following day, correct?

19 A. Correct.

20 Q. Okay. You testified at length about each of the
21 command staff and supervisor's recommendations, and
22 Exhibit D contains the recommendations of seven
23 command staff and supervisors. There were other
24 people present at the meeting that didn't hand in
25 sheets, correct?

1 A. Yes.

2 Q. Do you remember what their recommendations were
3 for chief points for Sergeant Mancini?

4 A. No.

5 Q. Ultimately, you, Chief Clements, decided to award
6 Mancini a zero, right?

7 A. Yes.

8 Q. Okay. So if you look at all the service points
9 that were recommended, it was a three, a zero, a two,
10 a one, a zero, a zero, and a two, that comes out to
11 eight total points from seven different people, which
12 is an average of about 1.14?

13 A. Yes.

14 Q. Why did you decide to give Sergeant Mancini a
15 zero?

16 A. It's not an average of all the scores that
17 are turned in or talked about. It's not totally
18 something by objectivity. I was alarmed by some of
19 the low scores and the number of real low scores. In
20 the end, I took the advice of the command staff and,
21 including our Deputy Chief, and gave him a zero.

22 Q. Did you place more weight on any one person's
23 recommendation than another?

24 A. I would say yes.

25 Q. Whose?

1 A. The supervisors who were taking over the
2 Patrol Bureau/Uniform Division.

3 Q. Who were they?

4 A. Major Verdi, Captain Lepre, as well as the
5 people who had been there, Lapatin and Campbell, but
6 all of them. You know, it's every single one of them
7 I gave some weight. It's hard for me to identify and
8 break down the percentage of weight I gave each one.
9 I took it all into account, but no, it was all
10 important.

11 Q. You didn't just take Tom Oates' recommendation,
12 because he's the Deputy Chief, right?

13 A. No, but certainly that means a lot.

14 Q. Okay. All right. So I want to know each and
15 every reason why Sergeant Mancini got a zero. I don't
16 care if there is one reason or a hundred reasons. I
17 don't care if the reason is because he's a Red Sox fan
18 and everybody else is a Yankees fan. I don't really
19 care. I want to know every reason he got a zero.

20 MR. MCHUGH: Objection as to form. You
21 can answer.

22 Q. Do you under stand the question?

23 A. Yes.

24 Q. Okay.

25 A. So the major reason that Mark got a zero is

1 because I took so much into account is, the thought
2 process of the commanding officers who forwarded
3 recommendations for service points to me on the
4 overall performance of Mark Mancini. Bearing in mind
5 that he is applying for a higher rank.

6 Q. Okay. What reasons, I want to know every single
7 reason that was stated at that meeting of why
8 Mancini's overall performance was below expectations.
9 I don't care how many things people said. I want to
10 know every single thing they said.

11 MR. MCHUGH: Objection as to form. You
12 can answer.

13 A. I can't recall everything that was stated.
14 It was an open conversation. I didn't take notes.

15 Q. At the last deposition you said that somebody
16 said he had a negative attitude?

17 A. Yes.

18 Q. Who said that?

19 A. I'm not sure.

20 Q. What evidence or examples did they point to
21 evidencing that Mark Mancini had a negative attitude?

22 A. Specifically, I don't recall. Other than, I
23 know in one of his evaluations, and it was brought up,
24 that he had difficulties working with his peers. I
25 don't know who said that. I don't know when it was

1 said.

2 Q. Somebody at that meeting said that in Mark
3 Mancini's written performance evaluation it was
4 written that he had difficulty working with peers?

5 A. I'm not saying they said it came from the
6 written evaluation, but it was mentioned. I remember
7 George, I believe it was George Stamatakos, saying
8 that he was not a team player. He didn't make that
9 other comment. I don't know who made that comment.

10 Q. Did George Stamatakos give you an example of why
11 he thought Mark Mancini -- strike that. Did George
12 Stamatakos point to any specific conduct by Mark, Mark
13 Mancini that he thought was evidence that he wasn't a
14 team player?

15 A. Not that I can recall.

16 Q. In awarding the chief points for those who signed
17 up for the June 16, 2012 lieutenants promotional exam,
18 did you consider any of the other candidates prior
19 discipline in formulating or awarding chief points?

20 A. Yes. It's always a factor.

21 MR. MCHUGH: Could you go back and read
22 that question?

23 (QUESTION READ BACK)

24 MR. MCHUGH: Thank you.

25 Q. Do you know which ones?

1 A. Yes. I know some people who had discipline
2 were Fernandes. I'm not sure if Coreville did then.
3 Sion had a discipline issue. On this list, that's all
4 I see. Maybe Pow Yang, minor, Number 22.

5 Q. Were these disciplinary actions discussed at the
6 meeting to award service points?

7 A. In general, yes.

8 Q. What about specific conduct by these police
9 officers, was that discussed at the meeting to award
10 service points?

11 A. I don't recall.

12 Q. Okay. What about Sergeant Mancini, was any, you
13 said that there was a discussion that he had a bad
14 attitude, or a poor attitude, and wasn't a team
15 player. Did anybody bring up any discipline that Mark
16 Mancini had received while he was a police officer?

17 A. Not that I recall at that meeting. They may
18 have. I don't recall.

19 Q. In your decision to award him zero points, did
20 you consider any prior disciplinary action taken
21 against Mark Mancini?

22 A. Overall it's in my mind, but specifically,
23 no. Most of it had happened a long time previous to
24 the awarding of these points. Again, it had been way
25 in the past.

1 Q. When you say most of it, what are you referring
2 to?

3 A. The discipline he has in his file.

4 Q. Which is what?

5 A. I believe it's a detail violation. I believe
6 it's car accidents, and he had that transgression in
7 District 5 at a substation.

8 Q. Didn't all those things happen when he was a
9 patrolman?

10 A. Yes.

11 Q. Okay. Isn't it true that you only consider
12 someone's overall performance in their current job
13 when awarding chief points?

14 A. No. We consider their overall performance,
15 but certainly events that happened a long time ago or
16 many years ago are not held to the same weight. But
17 for the most part, the way you coined the question,
18 yes, that's accurate. Most of it happened while he
19 was a patrolman, if not all of it.

20 So it was known by me, and I'm not sure of others
21 in the room. I'm sure it was discussed. I don't
22 remember specifically what was said.

23 Q. Let's talk about that transgression you referred
24 to a few times where you represented Sergeant Mancini.
25 You were his union representative, correct?

1 A. Yes.

2 Q. I'm going to represent to you that that incident
3 happened in 2000.

4 A. Okay.

5 Q. What effect, if any, did that transgression have
6 on your decision to award him zero chief points?

7 A. Minor.

8 Q. Give me a percentage.

9 MR. MCHUGH: Objection to form. Answer,
10 if you can.

11 A. I can't say. Minor. I can't put a --

12 Q. Did it factor in at all?

13 A. Yes. Minor. Just very low. It happened so
14 far before that. You have to understand, in our
15 agency people are going to get involved in issues.
16 Things that happened many, many years ago, they're
17 remembered.

18 Are they held into account? They're known. I
19 can't tell you to what degree it was held into
20 account. Very, very low, I would say.

21 Q. His detail violation, how much of a role did that
22 play in your decision to award him zero chief points?

23 A. Minimal, if any.

24 Q. What about the car accidents, what role, if any?

25 A. No, none.

1 Q. So did you give him, Mark Mancini, a zero because
2 of that transgression in 2000?

3 A. No.

4 Q. When Stamatakos, Mr. Stamatakos said Mancini is
5 not a team player, did you ask him why he felt that
6 way?

7 A. I don't recall how the conversation
8 continued, but I don't remember where the conversation
9 went from there.

10 Q. What about the incident that happened in 2009 in
11 Homeland Security where you were Sergeant Mancini's
12 manager, and he came to you to complain about being
13 replaced by Mr. Vinacco?

14 MR. MCHUGH: Objection to the form, use
15 of the word incident. You can answer.

16 Q. Do you remember talking about that last week?

17 A. Yes.

18 Q. Did you consider Mancini -- strike that. I
19 believe you testified that Mancini was badmouthing the
20 administration because Officer Vinacco replaced him in
21 Homeland Security, right?

22 A. Yes. He was upset by being removed.

23 Q. Did you consider the fact that Mancini was
24 badmouthing the administration, did you factor that
25 into your decision to award him zero chief points?

1 A. Yes. With his overall attitude and
2 performance, yes.

3 Q. Did you give him a zero because he complained
4 about the administration?

5 A. No.

6 Q. What role, if any, did that incident have in your
7 decision to award him zero?

8 A. It had some. I can't quantify an amount or
9 percentage.

10 Q. Did you think he was being unreasonable for being
11 upset by being replaced by Vinacco?

12 A. I did, because Vinacco was out on military
13 leave. I didn't know the understanding before Vinacco
14 left. I wasn't there when Vinacco went to military
15 service, but it would have been my understanding that
16 when he returned from his military assignment that he
17 would go back to his assignment.

18 Q. What specifically did Mancini say about the
19 administration that you believed, that you believe
20 constituted badmouthing?

21 A. Specifically, I don't know. Just he was
22 upset with the administration. I remember with the
23 Colonel and with, Colonel Esserman and Commander
24 Kennedy for removing him from that assignment.

25 Q. Did he make insulting comments about Esserman and

1 Kennedy?

2 A. I don't recall what he said. He was just, he
3 was upset and speaking negative about them. What he
4 said, I can't tell you.

5 Q. Did he name-call?

6 A. I don't know what he said.

7 Q. I mean, is it fair to say he was just venting his
8 frustration to you, because you were his supervisor?

9 A. That was certainly part of it.

10 Q. So why is that a problem?

11 MR. MCHUGH: Objection as to form. You
12 can answer.

13 A. I didn't know his full reasoning for being so
14 upset. I can't tell you.

15 Q. Did he make any threats about Esserman or
16 Kennedy, towards them?

17 A. Not that I can recall, no.

18 Q. Have you ever vented frustration during the time
19 you were a police officer to one of your supervisors
20 about something that happened at work?

21 A. Yes.

22 Q. Ever say anything negative about the
23 administration during the time you were a police
24 officer?

25 A. I can't think of anything specifically, but

1 I'm sure I did.

2 Q. Isn't that part of normal human behavior to do
3 that?

4 MR. MCHUGH: Objection as to form. You
5 can answer.

6 A. Yes.

7 Q. You didn't discipline Mancini at the time for his
8 comments, his negative comments about the
9 administration, did you?

10 MR. MCHUGH: Objection as to form.

11 A. No.

12 Q. You could have, right?

13 A. Yes.

14 Q. Did you at all participate in awarding Mancini
15 service points before you became the Police Chief?

16 A. Yes.

17 Q. When was the last time you made a recommendation
18 of service points for Mancini before you became Police
19 Chief?

20 A. I believe it was that 2010 test.

21 Q. What did you recommend that he get?

22 A. I don't have any form with me, but I believe
23 five.

24 Q. Okay. You thought at the time he was performing
25 at the highest possible level as a police officer,

1 right?

2 A. Yes.

3 Q. At that time you knew that he had made negative
4 comments about the administration, right?

5 A. Yes.

6 Q. You knew about the transgression in 2000 at the
7 time that you made a recommendation of five chief
8 points, right?

9 A. Yes.

10 Q. Did you think Mark Mancini had a negative
11 attitude in 2010 when you recommended he get five
12 chief points?

13 A. Yes.

14 Q. You did?

15 A. Yes.

16 Q. Why on earth did you recommend he get five
17 points?

18 A. The points have been fodder for conversation
19 for years. When they've gone on the list of several
20 names of people from different divisions and different
21 bureaus, there were points in time where the points
22 were given out like candy. We all rate differently.

23 If I'm being judicious and I'm awarding somebody
24 in my, under my command a three, and I see somebody
25 from a different unit being given a five that I think

1 and believe is less than a five, then I would go back
2 and say my three now turns into a five. Those types
3 of conversations went on all the time.

4 I can remember specifically giving someone a
5 three, and then I heard, you know, several other names
6 around the room were getting fives, so there were
7 different points in time where the points were just
8 given out very leniently.

9 Q. That's why you gave him a five in 2010?

10 A. Yes.

11 Q. What did you want to give him?

12 A. It depends on everyone else who is being
13 critiqued. If I'm going to be difficult on my
14 people -- and this has always been the conversation.
15 There's several people rating individuals. And some
16 supervisors have said, Do you know what? Average is
17 three. We should start at three.

18 Some supervisors believe everyone starts at five
19 and ends up at three. Three is poor.

20 Q. You testified that in 2010 when Mancini applied
21 for a promotional exam you recommend he get a five?

22 A. I'm not positive. I don't have my sheet from
23 that time. I believe I did. I can't be positive.

24 Q. You thought he had a poor attitude at the time?

25 A. He was developing a poor attitude based on

1 that removal, yes.

2 Q. Did you think he was not a team player at the
3 time?

4 A. Yes.

5 Q. Why?

6 A. He was thinking about himself, that he got
7 removed from a unit, and not for the good of the
8 organization. A guy that came back from military
9 leave, I mean, I can tell you, I have not been
10 satisfied with different assignments that I've had
11 along the way, but that's the way it is.

12 Q. Okay. Well, let's do it like this: Aside from
13 Mancini's negative comments about the administration,
14 what conduct did he partake in that leads you, that
15 caused you to formulate the opinion he wasn't a team
16 player because of that incident?

17 A. Just in general his overall attitude and
18 tone.

19 Q. I understand a negative attitude and tone. Let
20 me give you my definition or an example, hypothetical
21 situation of what I think is not a team player, okay?
22 You tell me if you agree or disagree.

23 Let's say my firm has a trial on a Monday, and I
24 want my whole staff to work the weekend to help me
25 prepare for trial, and my summer clerk goes to

1 Martha's Vineyard for the weekend with his girlfriend.
2 I would say that's someone that's not a team player;
3 would you agree with that?

4 MR. MCHUGH: Objection to form.

5 A. Yes.

6 Q. What did Mark Mancini do, what was his conduct
7 that caused you to formulate the belief that in 2010
8 he wasn't a team player?

9 A. I can't speak to any individual performance
10 of conduct to answer that.

11 Q. So it sounds like you're lumping in negative
12 attitude and not being a team player with the negative
13 comments he made about the administration when he was
14 replaced by Vinacco, correct?

15 MR. MCHUGH: Objection to form.

16 A. Correct.

17 Q. None of the folks that were present at that
18 meeting to award chief points in 2012 can give you any
19 specific examples of why they thought Mark Mancini was
20 not a team player, right?

21 A. There were lengthy conversations. I don't
22 recall specifically what was said. These meetings
23 last an hour, hour and-a-half. We're speaking about
24 22 names. Again, there is a lot of conversation.
25 Specifically I don't recall what was said even on some

1 of the other candidates.

2 Q. Did anyone who was present at that meeting
3 mention Mark Mancini's transgression that happened in
4 2000?

5 A. Not that I recall. They may have.

6 Q. I believe last week you testified that somebody
7 said Mancini just comes to work and leaves; do you
8 remember that?

9 A. Yes.

10 Q. Who said that?

11 A. I don't know who said that.

12 Q. In what context did the person say it in?

13 A. In the context that, you know, I believe the
14 general conversation is a lot of these guys will go to
15 community events on the weekend or will work overtime
16 for community events. Others come to work, they do
17 their shift. Unless forced for overtime, they're
18 gone.

19 Q. Did Mark Mancini get a zero because he didn't
20 participate in community events?

21 A. Specifically, no.

22 Q. Did Mark Mancini get a zero because he didn't
23 request overtime?

24 A. Specifically, no.

25 Q. Would you agree with me that participating in

1 community events and requesting overtime should not be
2 factors in awarding service points that are set forth
3 by the CBA?

4 MR. MCHUGH: Objection as to form. You
5 can answer.

6 A. As set forth by the CBA, yes.

7 Q. It's not in the CBA, right; overall performance
8 doesn't include community service and requesting
9 overtime, right?

10 MR. MCHUGH: Objection as to form.

11 A. Correct.

12 Q. Did you consider the fact that Mark Mancini
13 didn't do community events and request overtime in
14 your decision to give him a zero?

15 A. I think as part of an overall performance
16 evaluation for the rank of lieutenant we're looking
17 for people who are more community-service oriented.
18 So somewhat, yes.

19 Q. What about all the other candidates that signed
20 up for the exam, the other 22 people, did you consider
21 whether or not those candidates participated in
22 community events?

23 A. Absolutely, yes.

24 Q. How would the people at that meeting know if
25 candidates, or what extent the candidate participated

1 in community events?

2 A. They would know, because they are there. I
3 would know, because I'm at a lot of them. I'm not at
4 all of them. They would know because as district
5 commanders, or their respective assignment, they're at
6 many as well.

7 Q. Okay. Do you want to add that as another reason
8 why Mark Mancini got a zero, because he didn't
9 participate in community events?

10 MR. MCHUGH: Objection as to form.

11 Q. I asked you each and every reason, and you didn't
12 state that.

13 A. I would say that was considered in overall
14 performance. We're looking for officers who push a
15 certain level of esprit de corps in the organization
16 as well.

17 Q. Some of these other candidates who got low
18 scores, do you know, for example, Officer Yang got a
19 three, I believe, pretty consistently from everybody.
20 A couple of twos, a four, and a bunch of threes. Do
21 you know if those who evaluated him and made those
22 recommendations took into account his participation in
23 community events?

24 A. I don't know if they did.

25 Q. Okay.

1 A. I did.

2 Q. What is every factor that you consider in overall
3 performance when awarding service points?

4 THE WITNESS: Every factor?

5 MR. GAGLIARDI: Yes.

6 A. Overall work performance, the ability to
7 communicate, to motivate, to build a team within their
8 district, and to accomplish the overall mission of the
9 police department in a positive way.

10 Q. You ultimately determined that Mark Mancini
11 didn't meet any of those criteria, right, because he
12 got a zero?

13 A. I ultimately took into account the scores
14 provided to me by the command staff which led to my
15 giving Mark a zero.

16 Q. Well, what did the command staff and supervisors,
17 what factors do they consider in assessing overall
18 performance?

19 MR. MCHUGH: Objection as to form. You
20 can answer.

21 A. Not sure individually.

22 Q. Did you ever have a discussion amongst the
23 command staff and supervisors at one of these
24 meetings, This is the criteria we need to evaluate
25 these candidates on when awarding service points, so

1 that there is a uniform way of awarding them?

2 MR. MCHUGH: Objection as to form. You
3 can answer.

4 A. We had many conversations surrounding that
5 particular point. We, at the time of this awarding of
6 service points, we had never nailed down exactly what
7 that was going to be.

8 Q. Doesn't it say in the collective bargaining
9 agreement what overall performance is letters of
10 commendation, letters of recommendation, sick time?

11 MR. MCHUGH: Objection as to form. You
12 can answer. You can look at the exhibit, too, if you
13 want.

14 A. It says very vaguely what overall performance
15 is, yes.

16 Q. Let's talk about the June 23, 2012 sergeants
17 promotional exam that happened a week later. Did you
18 utilize the same procedure for awarding service points
19 for that exam as you did with the lieutenants
20 promotional exam?

21 A. Yes.

22 Q. Exactly the same procedure?

23 MR. MCHUGH: Objection as to form. You
24 can answer.

25 A. As far as handing out the form and discussing

1 the names?

2 Q. Yes. The procedure that we've been talking about
3 over the last two depositions. Did you follow the
4 same procedure for that exam as the lieutenants exam?

5 A. I just want to clear. By procedure, you mean
6 having a roundtable discussion and handing out forms,
7 yes.

8 Q. Okay. Did you utilize the same criteria to
9 evaluate people as you did with the lieutenants exam?

10 A. Yes and no. No being a lesser rank. It's a
11 different set of criteria to go from a patrol officer
12 to a street-level supervisor. A sergeant is very
13 close to the ground level and not considered part of
14 the upper staff, so it's a different criteria.

15 I think there are some people who would make very
16 good sergeants, and some sergeants would not make very
17 good captains or majors.

18 Q. Did you utilize the same criteria, though, in
19 evaluating their overall performance?

20 A. Overall, yes, general conversations about
21 their overall performance.

22 Q. You took into account their sick days, right?

23 A. Yes.

24 Q. You took into account their letters of
25 commendation, right?

1 A. Yes.

2 Q. Their productivity, in terms of number of
3 arrests, right?

4 A. Yes, not specifically with a quantified
5 number, but yes.

6 Q. You took into account whether or not they had any
7 civilian complaints lodged against them, right?

8 A. Yes.

9 Q. You took into account whether or not they had any
10 disciplinary actions taken against them, right?

11 A. Yes.

12 Q. Okay. The awarding of service points to the
13 sergeants applicants had the same meaning as the
14 awarding of service points to the lieutenants, right?

15 A. Yes.

16 Q. So a five awarded to a lieutenant in that
17 promotional exam is the same as a five awarded to a
18 sergeant, right?

19 A. It counts towards 5 percent of the total
20 100 percent similar to a lieutenant, yes.

21 Q. When you say that, you testified in the past they
22 had given fives out like candy. Do you want to change
23 that? You wanted to make sure that a five had a
24 meaning to it, right?

25 MR. MCHUGH: Objection as to form.

1 Misstates the testimony. You can answer.

2 A. Yes, but as well I would add that it's
3 different for a sergeant as well. It's a lesser rank.
4 So not as much weight would be given to certain areas
5 of leadership ability, because it's a different type
6 of leadership. It's a more confined leadership. It's
7 slightly different.

8 Q. But you weren't grading lieutenants more strictly
9 than you were grading sergeants with regard to service
10 points, were you?

11 MR. MCHUGH: Objection to form.

12 A. I think we were. Because, again, the rank of
13 lieutenant in our department at that time and prior to
14 that when we decentralized and presently is a mini
15 police chief in the district role and in the OIC role.

16 Q. So what is a five awarded to an applicant for a
17 lieutenant, how does that differ from a five awarded
18 to an applicant for a sergeant's position? Is there
19 any difference between the two; I thought a five was a
20 five?

21 A. A lieutenant with a five, we're counting on
22 someone ascending to the rank of lieutenant to carry
23 the ball and to speak for the Office of the Chief of
24 Police or the department when he's out there on a
25 shift when no one of higher rank is working with him.

1 That will never be the case for a sergeant. They
2 will never be the highest rank on duty.

3 Q. I understand the positions are different. I want
4 to know why a five awarded to a candidate for
5 lieutenant is different than a five awarded to a
6 candidate for a sergeant position.

7 A. Because he has more authority and more
8 responsibility. His voice is greater. His authority
9 is greater. His responsibility is greater. It's
10 different.

11 Q. So you had testified previously that a five meant
12 that the officer was performing at the highest level
13 possible, right?

14 A. Yes.

15 Q. What does a five mean for a sergeant?

16 A. He's driven, his passionate, he has the
17 ability to communicate. He has the ability to
18 motivate people under his command.

19 Q. Did you explain that there's a different, that a
20 rating of five for a lieutenant is different than a
21 rating of five for a sergeant; did you explain that to
22 people present at these meetings?

23 MR. MCHUGH: Objection to form.

24 A. Did I explain that? Not that I recall.
25 During conversations, these types of conversations

1 would routinely take place. Not on this process in
2 particular, but on several of them.

3 Q. I don't think I understand your testimony, why a
4 five is different for one exam, and why it's not the
5 same for both exams.

6 A. For the same rank?

7 Q. Does it say that in the collective bargaining
8 agreement? Doesn't it say in the CBA it's the same
9 process for sergeants and lieutenants, a five is a
10 five?

11 MR. MCHUGH: Objection as to form. You
12 can answer.

13 A. It refers to service points being given from
14 zero to five for promotions. That's --

15 Q. Right. It talks about the overall performance,
16 right?

17 A. Yes.

18 Q. So when you're evaluating a sergeant, are you
19 evaluating their overall performance in their current
20 job?

21 A. Yes, as well, bearing in mind, the rank they
22 are applying for. Me, personally. It doesn't
23 identify that. I don't know how others perceive it,
24 but yes, I certainly bear in mind the rank they're
25 applying for, whether it be sergeant, or lieutenant,

1 or captain.

2 Q. So if somebody who is applying for a sergeant
3 position gets a five, are they performing their job
4 better than a lieutenant who's getting a five, or
5 worse?

6 MR. MCHUGH: Objection as to form. You
7 can answer.

8 A. If somebody is performing their job as a
9 sergeant and they get a five, are they performing,
10 they're performing at a high level.

11 Q. At the highest level possible?

12 A. Yes, at the highest number of service points
13 available, yes.

14 Q. Okay. So is a zero bad for a sergeant who is
15 applying -- is a zero bad for a person who is applying
16 to be a sergeant?

17 A. Yes.

18 MR. MCHUGH: Objection as to form. You
19 can answer.

20 A. Yes.

21 Q. Was it still your goal to make sure that an award
22 of a high score for service points had meaning with
23 regard to the sergeants promotional exam?

24 MR. MCHUGH: Objection to form. You can
25 answer.

1 A. Yes.

2 Q. You didn't want fives to be, to just be given out
3 like candy for people applying for sergeant, right?

4 A. Yes. Bearing in mind, it's a different rank
5 and somewhat a different criteria.

6 Q. Okay. So were you rating the applicants for
7 lieutenants stricter than those that were applying for
8 sergeants, or the same?

9 MR. MCHUGH: Objection, asked and
10 answered. You can answer.

11 A. Not stricter, but I put more weight on the
12 position they were looking to attain, because of the
13 greater responsibility.

14 Q. But you used score sheets; did you use score
15 sheets for the sergeants' evaluations?

16 A. Yes.

17 Q. Did you hand out blank score sheets to those
18 present who were evaluating the sergeants for service
19 points?

20 A. Yes.

21 Q. All right. Let's talk about who was at that
22 meeting. When did that meeting take place?

23 A. Not exactly sure, but it would have been the
24 same time frame, probably within a week of the actual
25 exam.

1 Q. Who was present at that meeting?

2 A. Not positive of the entire lineup, but in all
3 probability it would have been Deputy Chief Oates, the
4 Majors, Tom Verdi, Frank Colon, Keith Tucker and the
5 Captains, the five that we've identified.

6 Q. The same people that were present at the meeting
7 the week before?

8 A. Yes. There would also be some lieutenants at
9 that meeting as well. I don't know if all of them
10 came or if anyone missed.

11 Q. Do you know who handed in completed score sheets
12 to you for that, for the sergeants, for the meeting to
13 award sergeants chief points?

14 A. No, I don't.

15 Q. Why don't you remember that?

16 A. I don't know who handed them in.

17 Q. Do you still have them?

18 A. I believe so, yes.

19 Q. If I asked you to produce them, could you get
20 them to your attorneys?

21 A. If I have them, yes.

22 MR. GAGLIARDI: I'm just going to state
23 for the record, Kevin, I believe that's also a duty to
24 supplement.

25 MR. MCHUGH: Well, I mean, I'm going to

1 give them to you. I don't believe, I don't see how
2 they're relevant. I mean, I'm going to give them to
3 you.

4 MR. GAGLIARDI: It's comparative
5 evidence.

6 MR. MCHUGH: I don't agree with that,
7 but...

8 Q. How is it you remember who handed in lieutenants
9 sheets, but you don't remember who handed in the
10 sergeants sheets?

11 A. Because I have them in front of me.

12 Q. No. Well, you testified last week who handed in
13 the sheets before you had them in front of you. You
14 have them in front of you today, but last week you
15 gave me the names.

16 A. Preparing for the testimony.

17 MR. GAGLIARDI: Okay.

18 (EXHIBIT E PLAINTIFF'S MARKED FOR ID)

19 Q. You've just been handed Exhibit E which is a
20 document dated July 16, 2012. It's the final order of
21 finish of the sergeants eligibility list. Have you
22 ever seen this document before today?

23 A. Yes.

24 Q. This document on Page 3 is signed by you, right?

25 A. Yes.

1 Q. And the Commissioner of Public Safety?

2 A. Yes.

3 Q. I want to direct your attention to the service
4 points. You had 46 people who sat for the exam. Do
5 you know how many people signed up but didn't actually
6 take the exam?

7 A. On this one, no.

8 Q. So there may have been additional service points
9 awarded that don't appear on this list, right?

10 A. Yes.

11 Q. It looks like everybody got a five except four
12 people. The four people that didn't get fives, two
13 got four and-a-half and two got fours?

14 A. Correct.

15 Q. Was an award of service points for this exam, was
16 that consistent with your policy to not just, to have
17 the service points have meaning and to not give out
18 fives like candy, using your language?

19 MR. MCHUGH: Objection as to form. You
20 can answer.

21 A. Yes. Bearing in mind, it's a different rank.

22 Q. How is it that 42 out of the 46 candidates for
23 the sergeants exam got fives?

24 MR. MCHUGH: Objection as to form. You
25 can answer, if you understand the question.

1 Q. How can you explain that?

2 A. Based on conversations around the room and
3 with the upper command staff and with the Deputy
4 Chief, we compiled this final list of service points.

5 Q. Do you agree with me that of these 46 people that
6 sat for the exam every one of them was performing
7 their job better than Mark Mancini was performing his
8 job?

9 MR. MCHUGH: Objection as to form. You
10 can answer, if you can.

11 A. Better than Mark Mancini, they were given
12 more service points for the rank they were going for.
13 I can't compare each one of them individually. We
14 don't do that, say let's look at all the fives for
15 detective service bureau, sergeant, lieutenant,
16 captain.

17 So a captain who gets a five, I would think,
18 would have to be performing at a higher level than a
19 service bureau detective getting a five or a
20 detective. It's a different position.

21 Q. Is it your testimony that a five on a sergeants
22 exam is not a higher grade, a higher award of service
23 points -- strike that. Would you agree with me that
24 the candidates who got fives on the sergeants exam
25 were performing at the highest level possible for

1 their current position?

2 A. Yes. Bearing in mind in respect to their
3 competition, yes.

4 Q. Did you explain to the people that were present
5 at this meeting who were going to make recommendations
6 of chief points that a five for a sergeants exam is
7 different than a five for a lieutenants exam?

8 A. That portion of a conversation came up by me
9 as well as many others around the room. Yes, that was
10 always part of the conversation.

11 Q. I have to say, that's very confusing. I don't
12 know how, how people are supposed to rate someone's
13 overall performance on a scale of zero to five, and
14 it's different for each promotional exam. How do you
15 keep track of that?

16 MR. MCHUGH: Objection as to form. You
17 can answer.

18 A. Again, I think total objectivity is
19 unattainable, unobtainable. There's some subjectivity
20 that comes into play, no doubt. I can't speculate
21 what each person thinks, but I get your point. I do.

22 Q. I mean, an A is an A in grade school?

23 MR. MCHUGH: Objection as to form. You
24 can answer.

25 A. Depends on the level of the course. You're

1 taking an AP course, C plus might be an A. B might be
2 an A.

3 Q. You said something about, that a five was the
4 highest score they could get with respect to their
5 competition?

6 A. Yes.

7 Q. What does that mean?

8 A. What I meant by that was where people who got
9 less than five for that particular score, we try to
10 keep somewhat consistent.

11 Q. So when you went through this list at that
12 meeting and you said, Okay, Robert Firth, what are we
13 going to give Robert Firth? Wouldn't a score be based
14 on Robert Firth's overall performance in his position,
15 whatever it was, without regard to who else is
16 applying for the exam; do you agree with that?

17 A. Yes and no. You have to see it. Yes and no,
18 because there are different raters from different
19 divisions. So whoever was in charge of Robert Firth
20 may have said, He's working for me; I say he's a five.
21 Then the conversation begins.

22 Somebody may say why they believe he's not a
23 five. Then the conversation begins. They'll say,
24 Well, if so-and-so is a four, then maybe that's what
25 he is. To give someone a frame of reference like,

1 Okay, you make a point. Because he has similar work
2 tendencies or whatever.

3 Q. I guess I would want to be the first one called
4 on the list, because then they could not compare me to
5 anybody else?

6 A. Then we go back, and that's happened. That's
7 happened several time where we start alphabetically.
8 Wait a minute, you gave so-and-so a five; we need to
9 go back.

10 Q. That would be no different for the lieutenants
11 exam then, right?

12 A. Correct.

13 Q. Would you agree with me that on a sergeants
14 promotional exam five is the highest you can get, and
15 zero is the lowest you can get?

16 A. Yes.

17 Q. That a five is good, and a zero is bad; can we at
18 least agree on that?

19 MR. MCHUGH: Objection to form. You can
20 answer.

21 A. Yes.

22 Q. Because nobody got a zero on the sergeants exam
23 for service points that means, you, Hugh Clements,
24 didn't believe anybody's performance was at the lowest
25 level possible; is that correct?

1 A. Correct.

2 Q. Is one of the reasons that 42 out of the 46
3 candidates on the sergeants exam got fives, it just so
4 happens that they were performing the job better than
5 lieutenants who applied for promotional exams?

6 MR. MCHUGH: Objection to form. You can
7 answer.

8 A. Not really.

9 Q. What about promotional exams for detectives; did
10 a five and a zero have the same meaning for service
11 points for detectives as it does for sergeants and
12 lieutenants, or is that a different rating system as
13 well?

14 A. Probably more similar to sergeant, but it's
15 certainly different than lieutenant, yes. There are I
16 think, I would certainly think, I would be rating it
17 differently if Kevin McHugh was applying to be a
18 detective or captain and I'm deciding whether to give
19 him five. There is a difference in the rank he is
20 applying for.

21 Q. You testified that in 2010 you recommended
22 Mancini get a five for a promotional exam, right?

23 A. I believe I did. I don't have a sheet. I'm
24 not positive.

25 Q. I will represent to you that he did, in fact,

1 receive a five from Colonel Esserman.

2 A. Yes.

3 Q. Are you aware of that?

4 A. I am based upon recommendations from the
5 command staff, yes.

6 Q. Then do you remember what those recommendations
7 were at the time --

8 A. No.

9 Q. -- for service points?

10 A. No.

11 Q. Did anybody recommend Mancini get a zero at that
12 time?

13 A. I don't know.

14 Q. Do you know who was present at that meeting to
15 recommend service points?

16 A. Would have been the same upper command staff.
17 By name, I don't know exactly who, but it would have
18 been the Chief, Deputy Chief, Majors, Captains and
19 some Lieutenants.

20 Q. Were the same people that were present at the
21 2012 meeting also present at that 2010 meeting?

22 A. Some. Some had changed.

23 Q. Was Verdi there?

24 A. I'm not sure.

25 Q. Was Major Tucker there?

1 A. He would have been there, yes.

2 Q. So he recommended Mancini get a three in 2012.

3 Do you know what he recommended Mancini get for
4 service point in 2010?

5 A. No.

6 Q. Tom Oates, was he present at the 2010 meeting?

7 A. Not positive. I would think he would have
8 been.

9 Q. Do you recall what he recommended Mancini get for
10 service points?

11 A. No.

12 Q. Captain Lapatin, was he present at the 2010
13 meeting?

14 A. Not positive, but I would think he would have
15 been.

16 Q. Do you remember what he recommended Mancini get?

17 A. No.

18 Q. Was Tom Verdi present at the 2010 meeting?

19 A. I'm not positive.

20 Q. Do you know what he recommended Mancini get for
21 service points?

22 A. No.

23 Q. What about Frank Colon, was he present at the
24 2010 meeting?

25 A. Probably, but not positive.

1 Q. Do you remember what you recommended Mancini get
2 for service points?

3 A. No.

4 Q. What about Captain Lepre; was he present at the
5 2010 meeting?

6 A. Not sure.

7 Q. Do you know what he recommended Mancini get for
8 service points in 2010?

9 A. No.

10 Q. Do you recall if Colonel Esserman collected the
11 score sheets in the same manner that you did?

12 A. I'm not sure if he, if he did. We forwarded
13 them. I'm not sure where, you know, if we gave them
14 to the Commander or to him.

15 Q. Where is all the documentation for promotional
16 exams maintained at the police department?

17 A. In the Human Resources Office of the points,
18 and sent to the union, obviously.

19 Q. What about the score sheets; where are those
20 maintained?

21 A. I keep them in a file. I'm not sure where
22 Colonel Esserman, where the previous chiefs kept them.
23 They're not part of the formal documentation.

24 Q. Where? What did you do with all the files that
25 Colonel Esserman maintained -- strike that. Did you

1 move into his old office?

2 A. No. It was a different location.

3 Q. What happened to all his paper files, filing
4 cabinets, if you know?

5 A. Some were, some main files were kept in the
6 outer office, but his personal files, he took
7 everything.

8 Q. Do you recall anybody at this 2010 meeting saying
9 that Mark Mancini had a negative attitude?

10 A. I don't recall.

11 Q. Do you recall if anybody at this 2010 meeting
12 said Mark Mancini was not a team player?

13 A. I don't remember.

14 Q. Do you recall if anybody at the 2010 meeting
15 recommended Mark Mancini get a zero?

16 A. I don't remember.

17 Q. Okay. So in 2010 you recommended Mancini get a
18 five, and then two years later you believed he should
19 get a zero, correct?

20 A. Yes.

21 Q. What happened in that two-year period that caused
22 you to believe that his work performance went from the
23 highest level to the lowest level?

24 A. Again, I don't have my sheet that I handed in
25 fom 2010. I believe I gave him a five. What happened

1 was there was a complete change in the command staff
2 of the police department. The Chief was gone. There
3 were different Majors, Captains. The entire command
4 staff had changed.

5 There was always that feeling of it's only a
6 relatively small number of, it's only a small latitude
7 that the department has in promoting for rank,
8 5 percent. We grade upon that. The points should be
9 more meaningful, the service points.

10 Q. Right, but how does that explain him going from a
11 five to a zero? I understand you want it to be a
12 stricter grader. I get that. How do you go from a
13 five to a zero in two years?

14 A. Again, I took highly the recommendations of
15 the command staff. I don't know why they forwarded
16 certain points the way they did. I think I've
17 indicated, you know, in my leadership over Mark, I
18 never had a problem with Mark. He worked for me
19 several steps along the way.

20 Near the end, he was upset with that removal from
21 Homeland Security. Then he didn't work for me, or he
22 did in patrol. Then some of these other bosses did
23 have direct contact with him. We ask for them to rate
24 the people under their command and the people on the
25 job to the best of their ability. They feel fit to

1 forward those scores to the office, so we can come up
2 with a final determination of the service points.

3 Q. Okay. Mancini signed up for a promotional exam
4 earlier this year, correct?

5 A. Yes.

6 Q. Do you remember what he got for chief points this
7 year?

8 A. Yes.

9 Q. What did he get?

10 A. Four.

11 Q. So he went from a five in 2010 to a zero in 2012
12 to a four in 2015, right?

13 MR. MCHUGH: Objection to form. You can
14 answer.

15 A. Yes.

16 Q. So what was it about Mark Mancini's work
17 performance that changed from 2012 to 2015 that caused
18 him to go, that caused you, Hugh Clements, to evaluate
19 him, change his overall performance evaluation from a
20 zero to a four?

21 MR. MCHUGH: Objection to form. You can
22 answer.

23 A. The main reason was the supervisor in charge
24 of the Uniform Division, I rely heavily on what they
25 tell me, Major Verdi and the Captains in charge. And

1 if I could take a step back, there are several people
2 along the way who are given lesser scores on one exam
3 and do far better on future exams.

4 On this particular one for all the candidates I
5 asked the bosses down in patrol what they recommended
6 for their people. And in specific, they recommended
7 four for Mark Mancini.

8 Q. So when did this, when was the most recent
9 lieutenants promotional exam?

10 A. I think it was February, I think. I'm not
11 positive.

12 Q. February 2015?

13 A. I believe so.

14 Q. Did you follow the same procedure for awarding
15 chief points that you followed in 2012 for the
16 sergeants and lieutenants exams?

17 A. Pretty much forwarding the list out there and
18 waiting on the information to come back from the
19 respective supervisors.

20 Q. Did you hold a meeting in February of 2015 to
21 discuss the award of chief points for those who were
22 going to sit for the February 2015 lieutenants exam?

23 A. Yes.

24 Q. Who was present at that meeting?

25 A. It would have been the same command staff,

1 Deputy Chief Oates, Majors Verdi, Colon, Lapatin and
2 the Captains.

3 Q. All the same people that were present at the
4 meeting in 2012?

5 A. Except for Tucker; he retired.

6 Q. Okay.

7 A. I'm not sure which captains or lieutenants
8 would be there.

9 Q. So Tucker wasn't there. What did Commander Oates
10 give this time; what did he recommend Mancini get for
11 service points?

12 A. I don't know.

13 Q. Did those present at the meeting in February 2015
14 fill out score sheets?

15 A. Yes.

16 Q. Do you still have those?

17 A. I believe so, yes.

18 Q. Can you turn them over to your attorneys?

19 A. Yes.

20 Q. When can you do that?

21 A. Today, tomorrow.

22 Q. What did Captain Lapatin recommend Mancini get
23 for service points?

24 A. I don't know.

25 Q. What about Verdi?

1 A. Four.

2 Q. What about Colon?

3 A. Not sure.

4 Q. What about Lepre?

5 A. Not sure.

6 Q. What about Campbell?

7 A. Not sure.

8 Q. Tell us how the conversation went at the February
9 2015 meeting to discuss Mark Mancini's service points?

10 MR. MCHUGH: Objection to form. You can
11 answer.

12 A. Specifically, I don't know. In general, I
13 mean, he had been doing a decent job of, a very decent
14 job. In the absence of the lieutenant, he would come
15 to the command staff meetings. So in general, he was
16 doing a good job.

17 Q. Was there any discussion about Mark Mancini
18 having a negative or poor attitude at this meeting?

19 A. At the meeting, I'm not sure.

20 Q. Was there any discussion about Mark Mancini not
21 being a team player at the 2015 meeting?

22 A. Specifically, I don't recall.

23 Q. All right. This meeting didn't, it only took
24 place about four months ago. How is it that you
25 remember scores from 2012, but you don't remember the

1 scores from four months ago?

2 MR. MCHUGH: Objection to form. You can
3 answer.

4 A. In preparing for this testimony.

5 Q. Okay. So you ultimately decided to give Mancini
6 a four in 2015, right, for service points?

7 A. Correct.

8 Q. Did you base it on the command staff and
9 supervisors' recommendations?

10 A. Mainly the Uniform Division/Patrol Bureau
11 recommendations.

12 Q. Did Mancini get a four because he is no longer on
13 IOD status?

14 A. No.

15 Q. Did Mancini get a four because of that lawsuit?

16 A. No.

17 Q. I mean, you have to concede, Chief Clements, he
18 went from a five to a zero to a four in five years. I
19 mean, don't you agree with me that that's strange?

20 MR. MCHUGH: Objection as to form. You
21 can answer.

22 A. Again, I highly, I highly regard the advice
23 from people who are in charge of those divisions. He
24 had been doing a very good, a decent job in
25 Districts 2 and 3.

1 Q. Why didn't you place a greater weight on the
2 recommendation of the Patrol Bureau supervisor back in
3 2012?

4 A. I did.

5 Q. Who was that?

6 A. That was Major Verdi, Captain Lepre,
7 Captain Lapatin and Captain Campbell.

8 Q. As you look back now, do you recall that maybe
9 some of these people that were recommending he get low
10 scores, do you think they maybe just didn't like, had
11 a personal problem with Mark, and it had nothing to do
12 with his work performance?

13 MR. MCHUGH: Objection to form. You can
14 answer.

15 A. I don't know.

16 Q. Do you think that some of the supervisors and
17 command staff that recommended low scores in 2012 were
18 trying to penalize Mark because he didn't want to file
19 for accidental disability benefits?

20 A. No.

21 Q. Do you think they wanted to send a message to the
22 rank and file that if you don't, you know, do what
23 you're told, we're going to penalize you and make it
24 harder for you to be promoted?

25 MR. MCHUGH: Objection to form.

1 A. I don't think so.

2 Q. Did someone from up above direct you to give Mark
3 a zero in 2012, like the Mayor or the Commissioner?

4 MR. MCHUGH: Objection to form. You can
5 answer.

6 A. No.

7 Q. Did anybody direct you to give Mark a zero?

8 A. No.

9 (BRIEF RECESS)

10 Q. Okay, Colonel Clements, just a few more
11 questions. You testified that in awarding Sergeant
12 Mancini four chief points in February 2015 you relied
13 heavily on the recommendations of the commanders for
14 the Patrol Bureau; is that correct?

15 A. Yes.

16 Q. Okay. Who are those people?

17 A. That was Major Verdi, Captain Stamatakos.
18 I'm not sure who else weighed in, but I know his
19 Lieutenant weighed in as well, Oscar Perez.

20 Q. Who were the commanders of the Patrol Bureau,
21 though, in February 2015?

22 A. Major Verdi, Captain Stamatakos. Captain
23 Lepre had left. I'm drawing a blank on the other
24 captains. We had trimmed the number of district
25 lieutenants from nine to five. So they took on added

1 responsibilities.

2 Q. Was Major Tucker a commander in the Patrol
3 Bureau?

4 A. No, no.

5 Q. What about Lapatin?

6 A. No. I'm sorry, Captain Isabella.

7 Q. Captain Isabella?

8 A. Yes, but he was removed from patrol doing,
9 working as an arm of the Chief's office doing special
10 projects.

11 Q. Why did you rely heavily on the recommendation of
12 the Patrol Bureau in February of 2015?

13 A. Because that's where Mark worked. I relied
14 on the recommendations of everyone, but I think it's
15 important to rely on the recommendations of the people
16 who work in that division, who oversee that division.

17 Q. Did you rely heavily on the commanders that
18 worked in the Patrol Bureau for their recommendations
19 for service points in 2012?

20 A. Yes.

21 Q. Who were those people?

22 A. That was Major Verdi, Captain Lepre, Captain
23 Stamatakos. Under them were Lieutenant D'Andrade who
24 oversaw that division. Again, I'm not sure if she
25 filled out a sheet.

1 Q. What about Lapatin, wasn't he a commander in the
2 Patrol Bureau back in 2012?

3 A. He just left. He was a captain in the Patrol
4 Bureau prior to the administration of that exam. He
5 had been there for awhile.

6 Q. So at the time of the, the time that the
7 commanders and supervisors made recommendations for
8 chief points in 2012, was Captain Lapatin a commander
9 in the Patrol Bureau?

10 A. I don't believe so.

11 Q. I thought you just said at the time of the
12 administration of the exam he was?

13 THE WITNESS: What year?

14 MR. GAGLIARDI: 2012.

15 A. I could be wrong. It was, I want to say he
16 was in Internal Affairs at that time. I'm not
17 positive. He had been there for quite some time. I
18 think at the point of the exam -- I'm not positive.

19 Q. When did he leave?

20 A. I don't know. It was within a couple-month
21 period of time.

22 Q. He was present at that meeting, and he had, he
23 had in the past worked in Mark Mancini's bureau,
24 right?

25 A. Yes.

1 Q. Did you rely heavily on his recommendation of
2 chief points in 2012?

3 A. I took it into account, yes.

4 Q. I mean, I was just curious. I don't know if you
5 ever answered this question. I'm curious while you
6 settled on a zero as opposed to a one or a two?

7 MR. MCHUGH: Objection to form.

8 A. I took into higher regard the people who are
9 going to be running the Uniform Division, their
10 recommendations. We were moving forward. We had just
11 made a lot of changes. I took everything into
12 account.

13 I took into high regard the service points
14 forwarded from the major and the captains who were
15 going to be running the Uniform Division/Patrol
16 Bureau. All of it, everyone's assessment.

17 Q. You testified you relied heavily on the
18 commanders that work in the Patrol Bureau; those were
19 Verdi, Lepre, Stamatakos and Lapatin?

20 A. Yes.

21 Q. And only one of those recommended a zero. Verdi
22 recommended a one, Lapatin a two. Stamatakos, we
23 don't know. Why did you settle on a zero if you
24 relied heavily on those four?

25 A. I relied on all of them, all the

1 recommendations, all seven that were forwarded. It
2 was alarming to me that there were many low scores.
3 In the seven assessments that were provided to me, it
4 was, it was alarming. I was surprised.

5 Q. Who was going to run the Patrol Bureau if
6 Sergeant Mancini got -- strike that. Who was going to
7 be in charge of the Patrol Bureau following that
8 promotional exam, the lieutenants, in 2012?

9 A. Major Verdi.

10 Q. Anybody else?

11 A. Captains Lepre and Stamatakos.

12 Q. Do you have any reason to believe that Stamatakos
13 gave Mancini a zero?

14 A. No.

15 Q. He didn't give him a zero, did he?

16 A. He didn't turn a sheet in.

17 Q. As you sit here today, do you recall if he gave
18 him a zero or not?

19 A. He didn't put a number on it, as far as I
20 know. He spoke at the, I testified to what I believe
21 he said at the meeting, but I don't recall him, I know
22 he didn't turn a sheet in.

23 Q. You said, I believe you testified you relied
24 heavily on the people who were going to be then
25 supervising Mancini, and that was Verdi, Lepre and

1 Stamatakos?

2 A. Yes, yes.

3 Q. Verdi was a one, Lepre was a zero, and we don't
4 know what Stamatakos was, correct?

5 A. Correct.

6 Q. Okay. Just a final topic to discuss. The final
7 service points that were faxed from HR to the union,
8 do you recall that?

9 A. Yes.

10 Q. That was a document that was an exhibit from the
11 last deposition?

12 A. Yes.

13 Q. Do you remember that? Did you alter that
14 document in any way after it was faxed to the union?

15 A. Absolutely not.

16 Q. Did you direct anyone to alter that document in
17 any way after it was faxed to the union?

18 A. No.

19 Q. Do you know if the document was altered in any
20 way after it was faxed to the union?

21 A. No.

22 MR. GAGLIARDI: Okay. That's all I've
23 got.

24 MR. MCHUGH: Thank you. No questions.
25 I'll take a transcript, please.

(DEPOSITION CLOSE AT 2:45 P.M.)

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C-E-R-T-I-F-I-C-A-T-E

I, ELIZABETH GREELEY, a Notary Public, in and for the State of Rhode Island, duly commissioned and qualified to administer oaths, do hereby certify that the foregoing Deposition of Chief Hugh T. Clements, Jr., a Defendant in the above-entitled cause, was taken before me on behalf of the Plaintiff, at the offices of Mark Gagliardi, 120 Wayland Street, Providence, Rhode Island on June 17, 2015 at 10:00 A.M.; that previous to examination of said witness, who was of lawful age, he was first sworn by me and duly cautioned to testify to the truth, the whole truth, and nothing but the truth, and that he thereupon testified in the foregoing manner as set out in the aforesaid transcript.

I further certify that the foregoing Deposition was taken down by me in machine shorthand and was later transcribed by computer, and that the foregoing Deposition is a true and accurate record of the testimony of said witness.

Pursuant to Rules 5(d) and 30(f) of the Federal Rules of Civil Procedure, original transcripts shall not be filed in Court; therefore, the original is delivered to and retained by Plaintiff's Attorney, Mark Gagliardi.

Reading and signing of the Deposition was waived by the Witness.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of June, 2015.

Elizabeth Greeley
Notary Public


ELIZABETH GREELEY, NOTARY PUBLIC
CERTIFIED COURT REPORTER
MY COMMISSION EXPIRES: 04/07/2018

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